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lication of this Work, which has been delayed by circumstances beyond the Author's control, and in which neither the profession nor the public would feel any interest.

The fate of the Bill now before the House of Commons, or of any similar measure, will not affect the object which led to the compilation of this Work nor detract much from its general utility.

The Succession Duty Act, 1853, having altered in some important particulars the Legacy Duty Acts and applied some of its provisions to the former Act, it occurred to the Author that a methodical arrangement of the several provisions of those Acts would form an useful Manual of Reference for the use of the practitioner. The statute has not yet been in operation a sufficient length of time to be the subject of many decisions, and it is understood that there is only one petition of appeal presented to the Court of Exchequer against the assessment of the Commissioners of Inland Revenue, in the case of Succession Duty, whence it may be inferred that their decisions hitherto have been satisfactory to the parties concerned.

The Stamp Laws still remain in such a complicated state as to render the application of them in the daily transactions of life a matter of great difficulty and uncertainty. A more equitable scale of Stamp Duties has been adopted in reference to some subjects(*d*), and some provisions in the Common Law Procedure Act, 1854, will obviate difficulties

(*d*) See 13 & 14 Vict. c. 97; 17 & 18 Vict. c. 83.

which formerly occurred as to the want of proper stamps on documents produced at trials, which come within the provisions of the latter Act (*e*).

It appears to the Author that the commissioners appointed for the consolidation of the Statute Law would have conferred a substantial benefit on the public if their labours had been directed towards this subject.

Since the introduction, in the year 1836, of the Bill to consolidate and amend the laws relating to Stamp Duties, this branch of the law has become so much more complicated and multifarious as to render it inexpedient to include in one Bill the whole subject matter ; but it certainly appears to the Author that the Stamp Laws on matters affecting such subjects as are of daily occurrence in the practice of barristers, solicitors and others, might, with great advantage, be consolidated and arranged, without rendering it necessary to include Probate, Legacy and Succession Duties.

Some Forms, framed with reference to the Succession Duty Act, 1853, which are not to be found in any other work on the subject, are added with the view of making the book more practically useful.

The Author, having been unable to find in any book the present constitution and practice of the Queen's Remembrancer's Office, has added a note on that subject, and regrets that he has had neither time nor opportunity to make this branch of the subject more complete.

Although the Author cannot anticipate that his twelve labours (*f*) will be as immortal as those of Hercules (*g*), he feels some confidence that his attempts to elucidate the laws of his country will at least meet with the approbation of some of the learned and judicious of the present generation, who are capable of estimating the value of intellectual labour.

(*f*) See List of the Author's Works before the title page of this volume.

(*g*) Perrupit Acheronta Herculeus labor. Hor. B. I. Ode III.

3, BRICK COURT, TEMPLE,
26th May, 1855.

CONTENTS.

CHAPTER I.

OF THE STAMP DUTIES ON PROBATES AND LETTERS OF ADMINISTRATION.

SECT.	PAGE
I. Of the Grant of Probate or Letters of Administration	1
II. The Amount of Probate and Administration Duty, and the Description of Property liable thereto,	
1. The Amount of Probate and Administration Duty.. .. .	18
2. Of the Description of Property liable to Probate and Administration Duty	22
3. Of the Exemption of Trust Property ..	41
4. Provisions in favour of Savings Banks and Friendly Societies	47
III. Of rectifying the Stamps on Probates and Letters of Administration where too high or too little Duty shall have been paid in the first instance ..	50
IV. Of obtaining a Return of Probate and Administration Duty on the ground of Debts of the Deceased	68

CHAPTER II.

THE LEGACY DUTY ACTS	80—129
------------------------------	--------

CHAPTER III.

OF THE CONSTRUCTION OF THE LEGACY DUTY ACTS.

I. What is a Testamentary Instrument	130
II. Upon what Subjects Legacy Duty is charged ..	135

SECT.	PAGE
III. Of the Liability of Personal Property situate out of Great Britain	176
IV. By whom Legacy Duties are payable	194



CHAPTER IV.

OF THE SUCCESSION DUTY.

I. Of the Interests in Real and Personal Property liable to Succession Duty	209
II. The Amount of Duty on Successions	223
III. Of Exemptions from Succession Duty	225
IV. How Real Property is chargeable	227
V. Special Provisions as to charging certain Interests in Real Property	230
VI. How Personal Property is chargeable	233
VII. Proceedings for the Assessment of Real and Personal Property	239
VIII. Powers of the Commissioners to commute and compound Duties, to receive in advance, and to return Duty	241
IX. Provisions for securing Payment of Succession Duty	243



APPENDIX.



THE SUCCESSION DUTY ACT, 1853.

16 & 17 VICT. c. 51.

An Act for granting to her Majesty Duties on Succession to Property, and for altering certain Provisions of the Acts charging Duties on Legacies and Shares of Personal Estates.

Preamble	247
------------------	-----

I. Interpretation.

1. Interpretation of Act—Real Property—Personal Property—Property—Succession—Trustee—Person—Legacy Duty Acts	247, 248
--	----------

SECT.	PAGE
<i>II. Description of Successions to be charged with Duty.</i>	
2. What Dispositions and Devolutions of Property shall confer Successions — Definition of "Successor," "Predecessor"	248, 249
3. Joint Tenants taking by Survivorship to be deemed Successors	249
4. General Powers of Appointment to confer Successions	250
5. Extinction of determinable Charges to confer Successions	251
6. Persons now beneficially entitled to Real Property subject to Leases for Life not liable to Duty ..	251
7. Dispositions accompanied by a Reservation of a Benefit to the Grantor, &c. to confer Successions ..	252
8. Dispositions to take effect at Periods depending on Death, or made for the Purpose of evading Duty, to confer Successions	252
<i>III. Management and Grant of Duties.</i>	
9. Duties to be under the Care of the Commissioners of Inland Revenue	253
10. Duties on Successions	254
11. Provision as to Married Persons chargeable with Succession or Legacy Duties	256
12. What Duties payable when the Successor is also Predecessor	256
13. Provision as to Joint Predecessors	257
14. Duty on transmitted Successions	257
15. Duties payable in respect of transferred Interests ..	257
16. Succession subject to Trusts for Charitable or Public Purposes chargeable with Duty	258
17. Provision for Life Policies and certain post obit bonds	258
18. Exemptions	259
19. Leasehold Estates not to be charged with Legacy Duty as Personal Estate	259
20. Duties to be paid on the Successor becoming entitled in possession; but in the Case of outstanding Interests, at the Determination thereof	260
<i>IV. Provisions applicable to Real Property.</i>	
21. The Interest of a Successor in Real Property to be considered as an Annuity	260

SECT.	PAGE
22. Rules for valuing Lands, Houses, &c.	262
23. Rule as to Timber	262
24. Rule as to Advowsons	263
25. Rule as to Property subject to beneficial Leases	263
26. Rule as to Manors, Mines, &c.	263
27. Duty payable by Corporations, &c. on taking Real Estates	264
28. Allowance for Fines, &c. paid by Successor	264
29. Real Property directed to be sold to be charged as Personalty	264

V. Provisions respecting Personal Property.

30. Personal Property to be invested in Real Property, how to be charged	265
31. Annuities under this Act and the Legacy Duty Acts to be valued according to the Tables annexed to this Act	266
32. Provisions as to the Assessment of Personalty	266

VI. Real and Personal Property.

33. Allowance to Donee of General Power of Appointment	266
34. What Allowance to be made for Incumbrances	267
35. No Allowance to be made in respect of Contingent Incumbrances, unless they take effect	268
36. The Duty on Successions to be calculated without regard to Contingencies	268
37. Provision for Allowance or Return of Duty	268
38. Allowance to be made to Successor in respect of relinquished Property	269

VII. Powers of Commissioners in certain Cases.

39. Power for Commissioners to compound Duties	269
40. Power of Commissioners to receive Duty in advance	270
41. Power for Commissioners to commute future Duties	270

VIII. Provisions for securing Payment and Collection of Duties.

42. Duty to be a First Charge on Property	270
43. Provision for the separate Assessments of Properties	271
44. What Persons accountable for Duty	272

Contents.

XV

SECT.	PAGE
45. Notice of Succession to be given to the Commissioners, and a Return of the Property made	272
46. Penalty on not giving notices of Succession	274
47. Proceeding if Return not made	274
48. Power to enforce Returns from Executors and Admi- nistrators	275
49. Accounting Party to verify his Account by Production of Books and Documents, and Commissioners to inspect Public Books without fee	276
50. Power of accountable Party to appeal	277
51. Duty to be entered by Commissioners in a book, and a stamped Receipt to be given	277
52. Protection to bonâ fide Purchasers	278
53. Court in Suits for the Administration of Property to provide for payment of Duty	278
54. Commencement of Act	278
55. Short Title of Act	278

The SCHEDULE to which the Succession Duty Act, 1853, refers.

TABLE I.—The values of an Annuity of £100 per Annum, held on a Single Life ..	279
TABLE II.—The values of an Annuity of £100 per Annum, held on the joint continuance of Two Lives	281
TABLE III.—The values of an Annuity of £100 per Annum, for any number of Years, not exceeding 95 years	346



RULES.

1. Rule for determining the value of an Annuity of £100 per Annum, held on the longest of Two Lives ..	348
2. Rule for determining the value of an Annuity of £100 per Annum, held on the joint continuance of Three Lives	348
3. Rule for determining the value of an Annuity of £100 per Annum, held on the longest of Three Lives ..	348
TABLES published by Finlaison and Willich	349

	PAGE
DIRECTIONS as to Payment of Duties, and Forms supplied by the Commissioners of Inland Revenue	350
FORMS APPLICABLE TO LEGACY AND SUCCESSION DUTIES.	
List of Forms under the Legacy Duty Acts	352
List of Forms under the Succession Duty Act, 1853 ..	353
Instructions for filling up the Forms Nos. 1 and 2 ..	354
Form of Writ of Summons for compelling an Account by Executors, &c. and Successors	275
Form of Writ of Attachment	275
Forms under the Succession Duty Act, 1853 ..	356
Chancery Abstract	359
Special Forms	361
FORMS APPLICABLE TO SUCCESSION DUTY ..	362
Form of Petition of Appeal against the Assessment of the Commissioners of Inland Revenue	363
Ground of Appeal against the Assessment of the Commissioners of Inland Revenue	364
Form of Petition of Appeal against the Assessment of the Commissioners of Inland Revenue for an Allowance in respect of Property relinquished under the 38th section of the Succession Duty Act, 1853 ..	366
NOTE ON THE QUEEN'S REMEMBRANCER'S OFFICE	369
INDEX	377—408

LIST OF CASES.

A.		PAGE
'Advocate-General v. Thom-	son ..	185
Ansley v. Cotton ..	..	201
Arnold v. Arnold ..	..	84, 183
Atkins v. Smith ..	..	31
Attorney-General v. Bacchus		170
— v. Beatson ..	..	181
— v. Bouwens		25, 28
— v. Burnie ..	..	171
— v. Cavendish ..	..	167
— v. Cockerell		21, 181
— v. Dimond ..	..	3, 23
— v. Dunn ..	..	192
— v. Fitzgerald ..	..	164
— v. Forbes ..	..	183
— v. Hancock ..	..	176
— v. Lord Henniker		160, 161
— v. Marquis of Hert-		
ford		131, 157, 158
— v. Holbrook ..	..	170
— v. Holford ..	..	140
— v. Hope ..	..	23, 24
— v. Hughes ..	..	88
— v. Jackson		153, 204, 205
— v. Jones		38, 132, 139
— v. Kingston ..	..	369
— v. London, Corp. of		370
— v. Mangles ..	..	142
— v. Metcalfe		141, 145, 146
— v. Napier		177, 189, 191
— v. Nash ..	..	163
— v. Ramsay's Trustees		131
— v. Simcox ..	..	142
— v. Staff ..	..	33
— v. Wood ..	..	172
— v. Lord Wynford ..	..	89
Aubin v. Daly ..	..	210
Aveling v. Knipe ..	..	213

B.		PAGE
Baily v. Boulton ..	..	198
Barksdale v. Gilliam ..	..	195
Bate v. Payne ..	..	206
Bliss v. Putnam ..	..	200
Blower v. Morret ..	..	161
Bodger v. Arch ..	..	14
Boutts v. Ellis ..	..	129
Brown v. Smith ..	..	189
Bruce v. Bruce ..	..	30
Bunn v. Markham ..	..	128
Bryson v. Brownrigg ..	..	128
Bruce v. Bruce ..	..	176
Bruce, Re ..	..	179
Burrows v. Cottrell ..	..	204
Butler v. Butler ..	..	22
Byne v. Currey ..	..	204

C.	
Calvert v. Sebbon ..	200
Campbell v. Campbell ..	213
Carr v. Roberts ..	41
Carter v. Crofts ..	32
Charitable donations (Com- missioners of) v. Devereux	194
Chatteris v. Young ..	203
Cholmondeley, In re ..	136
Christian v. Devereux ..	58
Clough v. Dixon ..	57
Coombe v. Trist ..	174
Cooper v. Day ..	202
Courtroy v. Vincent	195, 200
Craigie v. Craigie ..	178
— v. Lewin ..	190
Crockett v. Crockett ..	155
Crowder v. Clowes ..	201, 202
Curling v. Thornton ..	177
Custance v. Bradshew ..	41

D.

	PAGE		PAGE
Dalhousie v. M'Donall ..	189	Hare v. Nasmyth ..	178
Dawkins v. Tatham ..	195, 204	Harris, In re ..	154
Day v. Croft ..	201	Harrison v. Berwall ..	109
Deacon v. Colquhoun ..	135	Haynes v. Haynes ..	204
De Bonneval v. De Bonneval ..	177	Hay v. Faislie ..	181
Denn v. Diamond ..	130, 131	Heale v. Knight ..	150
Doe d. Basseff v. Meed ..	64	Henniker, Lord v. Attorney-General ..	161
— d. Birtwhistle v. Vardill ..	177	Hicks v. Keat ..	79
— d. Hanley v. Wood ..	63	Hill v. Atkinson ..	178
— d. Littlewood v. Green ..	215	— v. Chapman ..	128
— d. Richards v. Evans ..	22	Hobson v. Neale ..	131, 150
— v. Amos ..	138	Hooper v. Goodwin ..	128
— v. Wilson ..	216	Horne, Ex parte ..	5
Douglas v. Congreve ..	201	Howard v. Prime ..	58
Drake v. Attorney-General ..	38	Hubbard v. Johnston ..	130
Duffield v. Hicks ..	127	Hunt v. Stevens ..	58

E.

Earley v. Benbow ..	204
Edwards v. Jones ..	128
Evans, In re ..	141
Ewin, Re ..	177, 182

F.

Farwell v. Seale ..	207
Fletcher v. Fletcher ..	134
Forbes v. Forbes ..	191, 192
Ford v. Ruxton ..	199
Forrest v. Whitway ..	216
Foster v. Ley ..	206
— v. Blakelock ..	67
Franklin's Charity, Re ..	163

G.

Glynn v. Oglander ..	132
Gorgier v. Mieville ..	129
Gough v. Findon ..	135
Gosden v. Dotterell ..	195
Green v. King ..	216
Griffiths, In re ..	165
Gude v. Mumford ..	197

H.

Hales v. Freeman ..	206
Hamond v. Jethro ..	214

I.

Irons v. Smallpiece ..	128
Izon v. Butler ..	169

J.

Jackson v. Forbes ..	183
Jeffereys v. Small ..	214
Jones v. Howells ..	57
Jones's trust ..	96

K.

King's Proctor v. Daines ..	132
-----------------------------	-----

L.

Lake v. Gibson ..	214
Laurie v. Clutton ..	152
Lawson v. Lawson ..	129
Leacock v. Maynard ..	201, 202
Lee v. Moore ..	30
Logan v. Fairlie ..	31
Londesborough, Lord v. Somerville ..	201
Logan v. Fairlie ..	180
Longmore v. Elcum ..	155
Louch v. Peters ..	195, 197
Lowe v. Fairlie ..	31

List of Cases.

xix

M.	PAGE
M'Mahon v. Rawlings ..	29
Mann v. Lang ..	67
Maraver, In bonis ..	178
Marris v. Burton ..	199
Masterman v. Maberly ..	132
Matson v. Swift ..	38
Mence v. Bagster ..	216
Meridith v. Watson ..	178
Miller v. Miller ..	128
Montgomery, In bonis ..	132
Moore v. Darton ..	127, 129
Morley v. Bird ..	214
Moses v. Crafter ..	22
Moyse v. Gyles ..	213
Mules v. Jennings ..	148, 149
Munro v. Mauro ..	189

N.

Nail v. Punter ..	33
Noel v. Lord Henley ..	200

P.

Palmer v. Whitmore ..	32
Pearse v. Pearse ..	24
Petty v. Styward ..	214
Pickard v. Attorney-General	156
Pipon v. Pipon ..	177
Platt v. Routh ..	34—38, 139
Pope v. Pope ..	155
Preston v. Viscount Melville	179
Price v. Dewhurst ..	29, 177

R.

Raymond v. De Watteville	31
Radburn v. Jervis ..	210
Reg. v. Trustees of Balby & Workop Roads ..	4
— v. Commissioners of Stamps and Taxes ..	76
— v. Commissioners of Stamps and Taxes, Re Ostell ..	77
— v. Commissioners of Stamps ..	122

	PAGE
Rex v. Bebb ..	376
— v. Capper ..	5
— v. Collector of Customs	214
— v. Williams ..	376
— v. Worcester Canal Company ..	5
— v. Wrangham ..	376
Robinson, Re ..	Addenda
Rogers v. James ..	58

S.

Sammon, Re ..	88
Saunders v. Keddel ..	199
Scarth v. Bishop of London	5, 29
Shaftesbury v. Marlborough	202
Shirley v. Earl Ferrers ..	154
Shingler v. Pemberton ..	132
Sill v. Worswick ..	177
Siratt, Ex parte ..	Addenda
Smith v. Anderson ..	193
— v. Casen ..	128
— v. Stafford ..	5
Somerville v. Somerville ..	30
Spencer, Re ..	3
Spratt v. Harris ..	29, 30
Stafford, Earl v. Buckley ..	210
St. Albans (Duke of) v. Beauchamp ..	201
Staniland v. Willott ..	128
Stanley v. Bernes ..	177
Stearn v. Mills ..	67
Stockton & Darlington Railway Company v. Barrett	130
Stourbridge Canal Company v. Wheeley ..	130
Stow v. Davenport ..	155, 195
Swaine v. Burton ..	213
Swahey v. Swabey ..	146
Sweeting v. Sweeting ..	163
Swift v. Swift ..	31

T.

Tate v. Hilbert ..	128, 129
— v. Leithead ..	128, 129
Tatnail v. Hankey ..	178
Taylor v. Martindale ..	211

ADDENDA.

THE Master of the Rolls and the several Vice-Chancellors will entertain by summons at chambers applications under the stat. 36 Geo. 3, c. 52, s. 32 (a), for payment out of court of legacies paid in under that act. In case any difficult question arises as to the right of the person making the application, the matter can be adjourned into court to be argued by counsel (b).

Upon rules in the Court of Exchequer, calling on executors to account for legacy duties, under the 42 Geo. 3, c. 99, s. 2, before the Succession Duty Act, 1853, it was made a part of the rule that if, upon delivery of the account, there should be found to be any duty payable to the Queen, the executors should pay the costs of the crown (c).

(a) *Post*, p. 115.

(b) Mr. Shelford is indebted to Mr. Metcalfe, one of the registrars, for the above information.

(c) *Re Robinson*, 2 Mees. & W. 407; 5 Dowl. 609; 6 Law J. (N. S.) Exch. 168; see *Es parte Stratt*, 3 Dowl. 309.



THE LAW
RELATING TO
THE PROBATE, LEGACY
AND
Succession Duties.

CHAPTER I.

OF THE STAMP DUTIES ON PROBATES AND LETTERS
OF ADMINISTRATION.

—◆—

SECT. I.—*Of the Grant of Probate or Letters of Administration.*

SECT. II.—*The Amount of Probate and Administration Duty, and the Description of Property liable thereto.*

SECT. III.—*Of Rectifying the Stamps on Probates and Letters of Administration, where too high or too little Duty shall have been paid in the first instance.*

SECT. IV.—*Of obtaining a Return of Probate and Administration Duty on the ground of Debts.*

—◆—

SECTION I.—*Of the Grant of Probate or Letters of Administration.*

THE Ecclesiastical Courts of this country have from very early times exercised jurisdiction in matters of testacy and intestacy as to personal estate. The jurisdiction in these matters, so far as respects the validity or invalidity of testamentary instruments and the grant of letters of administration of the

Jurisdiction of the Ecclesiastical Courts in matters of testacy and intestacy.

estates of persons dying intestate, has indeed, as to personal estate, rested exclusively with those courts, except in some instances in which it has by custom been exercised by lords of manors. Upon the deaths of persons dying possessed of personal estate, application is made to these courts for probates of their wills, if they have died testate, or for letters of administration of their estates, if they have died intestate (a).

Jurisdiction
to grant pro-
bate.

The jurisdiction to grant probate is regulated by the place of the testator's death, and the local situation of his effects at the time of his death; if, for example, he die in one diocese, and leave *bona notabilia*, that is goods to the value of 5*l.* at the time of his death, in another diocese in the same province, the jurisdiction belongs to the metropolitan. If he have also, at the time of his death, effects to the above amount in more than one diocese of the province, the archbishops shall, in each province, grant a probate according to the *bona notabilia* within their respective jurisdictions. The probate is granted in respect of the effects that are within the jurisdiction of the spiritual judge at the time of the testator's death, and the jurisdiction

(a) Some particulars respecting the variety and nature of the Courts of Probate, and the circumstances upon which the different jurisdictions of them depend, will be found in the Fourth Report of the Commissioners on the Law of Real Property, pp. 42—54. It is proper to observe, that for some time it has been under the consideration of the legislature to abolish the testamentary jurisdiction of the Ecclesiastical Courts, and to transfer it to a single Court, to be established for that purpose in London. It is also proposed to establish district offices to which application may be made for probate or letters of administration only in the case in which the testator or intestate may have a fixed place of abode at the time of his death within the district, and in which his personal property is sworn under 1,500*l.*—Second Report, Chancery Commissioners, January, 1854.

is exercised in respect of these effects only (b). If the executor thinks fit, he may remove them from jurisdiction to jurisdiction; but that does not affect the right of granting probate, which is regulated by the local situation of the effects at the testator's death; and if they are removed by the executors into another jurisdiction, it is not necessary to obtain any sanction or authority from such jurisdiction.

Where a diocesan probate is proper with reference to the situation of the assets at the death, it remains so, notwithstanding they may afterwards be rightfully or wrongfully removed out of the diocese (c).

Where a person had at his death, and when letters of administration were granted, *bona notabilia* in one diocese only, the subsequent payment of a portion of them into the Court of Chancery does not render a prerogative probate necessary to obtain payment out of court (d). Where, therefore, an intestate was at his death entitled to legacies under two wills which had been proved in the Consistory Court of Chester, in which diocese the executors and trustees of both wills were also living at the death of the intestate, and letters of administration to the intestate, who died abroad, were granted by the same court, and afterwards the trustees of one of the wills paid the money into the Court of Chancery under the Trustees Relief Act, 11 & 12 Vict. c. 96, it was held that the diocesan letters of

Paying money out of court.

(b) *Attorney-General v. Dimond*, 1 Cr. & Jerv. 356; 1 Tyrw. 243.

(c) *Re Spencer*, 9 Hare, 410. See 1 De G. Mac. & G. 311; 16 Jur. 233; 21 L. J., Chan., 314.

(d) *Re Knowles*, 1 De G. Mac. & G. 60; 15 Jur. 1163; 21 L. J., Chan., 142.

administration were sufficient to authorize the administrator to receive the money out of court (*d*).

Bona notabilia.

The subject of *bona notabilia* has given rise to much technical learning, into which it is not deemed necessary to enter. It may be proper, however, to observe that debts owing to the testator are *bona notabilia*. Simple contract debts, as those due on bills of exchange, make *bona notabilia* where the debtor lived at the testator's decease; whereas specialty debts, as bonds, constitute *bona notabilia* where the specialty happened to be at the death of the testator or intestate. Judgments, statutes, or recognizances are *bona notabilia* where they are recorded. An annuity for years out of a parsonage shall be *bona notabilia* where the parsonage is. A lease for years of the value of 5*l.* constitutes *bona notabilia* where the land lies (*e*). A mortgage of tolls and toll-houses, in the form prescribed by 3 Geo. 4, c. 126, s. 81, is considered *bona notabilia* where the road and toll-houses were situated, and not where the deed was at the mortgagee's death (*f*).

Probate of will in respect of shares.

Where shares are personal estate, and the railway or other work runs through different dioceses, it will be a matter for consideration in what court probate of will or letters of administration are to be obtained. Where a canal was situate in both the provinces of York and Canterbury, but the office for transacting the business of it was in that of Canterbury, the court held that probate of the will of a shareholder in the province of Canterbury was

(*d*) *Ib.* See *In Re Spencer*, 1 De G. Mac. & G. 311; 16 Jur. 233; 21 L. J., Chan., 314.

(*e*) See 1 Wms. Executors, pp. 263, 264, 4th ed. *post*, p. 25.

(*f*) *Reg. v. Trustees of Balby and Workop Roads*, 22 Law J., Q. B., 164.

sufficient (*f*). An act for making a navigable canal provided that the shares should be deemed personal estate, and be transferable as such. The canal passed through parishes in the diocese of Worcester, and other parishes in the diocese of Lichfield and Coventry. The transfer of shares in the canal were filed at the public office of the company in the latter diocese, where the dividends were also paid and books of account kept—it was held, that the right of a shareholder to a share of the profits, being personal profits, might be considered as locally situate in the diocese of Lichfield and Coventry for the purpose of probate, and that a probate granted by the consistorial court of that diocese was sufficient (*g*).

Where a person dies possessed of money in the public funds, it is considered *bona notabilia* in the diocese of London, but in such cases a prerogative probate or administration is almost universally taken out (*h*).

Even the Prerogative Courts of Canterbury and York have no jurisdiction, except within their own respective provinces, and if therefore the deceased died in London, having shares in railways in the north, it would be necessary to take out probate or administration, either diocesan or prerogative in both provinces.

If probates of wills or letters of administration of the estates of persons deceased be granted by any of the diocesan or inferior courts, and it appears that the deceased was possessed of *bona notabilia* Void grants.

(*f*) *Smith v. Stafford*, 2 Wils. Ch. R. 166.

(*g*) *Ex parte Horne*, 7 B. & C. 632; *S. C. nom. Rex v. Worcester Canal Company*, 1 Man. & R. 529.

(*h*) *Scarth v. Bishop of London*, 1 Hagg. 625; *Rex v. Capper*, 5 Price, 262.

out of the diocese or district, but within the same province, the probates or letters of administration so granted are absolutely null and void *ab initio* (i). If there should be no *bona notabilia*, a probate granted by the Prerogative Court is only voidable, and consequently every act done by virtue of it before the avoidance is held to be valid (k).

Course of
proceeding in
cases of
testacy.

In case of testacy, if there is no contention as to the validity of the testamentary instrument, the course of proceeding in Doctors' Commons is substantially as follows:—The testamentary instrument is brought to a proctor, whose duties are carefully to examine it, and to see whether any alterations have been made in it, whether it is apparently executed according to the statute 1 Vict. c. 26, as amended by 15 & 16 Vict. c. 24, whether the attestation is perfect, whether any cancellation or interlineation or erasure has taken place. The proctor has also to see whether there is a regular formal appointment of executors, or if not, whether there is one by implication from the contents of the will, technically called an appointment of executors “according to the tenor;” whether the instrument refers to any other paper, testamentary or not, and where there are several papers, whether one revokes another. If there is no appointment of executors, or the executors renounce, the proctor has to look for the residuary legatee, if there be one, and if not he has to inquire and ascertain who is entitled as next of kin or otherwise to the grant of administration with the will annexed. Affidavit is also made by the executor or party applying for the grant of

(i) Second Report, Chancery Commissioners, pp. 13, 14.

(k) See Wms. Executors, p. 266, 4th edit.

the death of the alleged testator, and that his personal estate did not exceed a specified amount. If upon the examination by the proctor no defect be found, the testamentary instrument and affidavit are brought into the registry of the court, where they are again examined by a subordinate officer of the court. The subordinate officer, if he discover any difficulty or apparent irregularity, refers the question to one of the deputy registrars, who, if he feel any doubt, requires the matter to be brought before the judge of the court. In the result, if all be found correct, the grant of probate, or letters of administration, with the testamentary instrument annexed, issues under the seal of the court; but if any substantial question presents itself, the parties whose interest may be affected by the testamentary instrument are required to be cited before probate or administration is granted (1).

When a will is proved in the Ecclesiastical Court, the original is deposited in the registry of the court, and a copy on parchment, with a certificate that the will has been proved annexed to it, under the seal of the court, is given to the executor. The copy with the certificate is called the probate. Form of the probate.

In proving a will or taking out letters of administration, two affidavits are to be sworn, the first being required by the court for its own security, and the second by the act of the 55 Geo. 3, c. 184, for securing the stamp duty on probates and letters of administration. As the executor or administrator is required to swear that the property, in respect of which the probate or administration is granted, is under the value of a certain sum specified by him, Affidavits to be sworn.

(1) Second Report, Chancery Commissioners, January, 1854, pp. 8, 9.

by which the stamp duty is regulated, it becomes necessary in most cases that the executor or administrator should, before proving the will or taking administration, ascertain the nature and particulars of the property, in order to enable him to make the requisite affidavit (*m*).

The oath taken by an executor previous to the grant of probate is administered to him verbally by the surrogate before whom he is sworn, and is to the following effect:—

FORM OF OATH TO AN EXECUTOR administered verbally by the Surrogate.

You swear that this paper writing contains the last will and testament of A. B. deceased, as far as you know or believe, that you are the executor named therein, that you will truly perform the same by paying first his debts and then the legacies therein contained, as far as his goods, chattels and credits will thereto extend; and the law charge you that you will make a true and perfect inventory of all his goods, chattels and credits and render a just and true account thereof when you shall be thereunto lawfully required, and that the whole of the goods, chattels and credits of the deceased does not amount in value to the sum of pounds, and that the deceased died on or about the day of 185 . So help you God.

Then (as to the affidavit required by the 55 Geo. 3, c. 184)—

That is your name and handwriting, you know the contents of this affidavit, and believe the same to be true. So help you God.

Different surrogates may slightly vary the words, but the oath is always to the same effect. A jurat is written on the will by the proctor, stating that such oath has been administered, which is then signed by the surrogate, and the will brought into the public office, where it undergoes a thorough

(*m*) See *post*, Sect. II., as to the description of property liable to duty.

scrutiny before the probate is signed. The form of the jurat is as follows :—

A. B. of &c. and C. D. of &c., the executors of this will named, were duly sworn to the truth and faithful performance thereof as usual, and that the goods, chattels and credits of the deceased do not amount in value to the sum of pounds, and that the deceased died on the day of last.

Before me, E. F. surrogate.

The stamp office affidavit is sworn to at the same time.

In cases of intestacy, if there be no contention, letters of administration are granted upon an affidavit by the claimant of the death of the alleged intestate, that the personal property is under a certain amount, that the deceased died intestate, and that the claimant fills some character as husband, wife, next of kin, or otherwise giving title to a grant. The grant, however, is never issued until fourteen days after the death of the alleged intestate. Course of proceeding in cases of intestacy.

It may be observed generally, that the husband of a deceased wife who died intestate has the exclusive right to administer her personal estate, but such right may be barred when she is empowered to make a will. If the husband dies before he obtains administration, the Ecclesiastical Court will grant administration to the representatives of the husband, unless it appears that the property belongs to the wife's next of kin, and not to the husband's representatives. The ordinary is to grant administration of the effects of a husband dying intestate to the widow or next of kin, or to either or both at his discretion. If the widow renounce administration, it will be granted to the children or other next of kin of the intestate in preference to creditors. Of the next of kin, first the children of the intestate, and in failure of them, the father of the deceased, or if

he be dead, the mother is entitled to administration, then follow brothers or sisters, grandfathers, uncles or nephews, and lastly cousins and the females of each class respectively. Relations by the father's side and the mother's in equal degree of kindred, are equally entitled. The half-blood is admitted to administration as well as the whole, therefore the brother of the half-blood shall exclude the uncle of the whole blood, and the ordinary may grant administration to the sister of the half or to the brother of the whole blood at his discretion.

The oath taken by the administrator is administered to him verbally by the surrogate, and is to the following effect:—

OATH TO AN ADMINISTRATOR administered verbally by the Surrogate.

You swear that is dead, without having made any will, as far as you know or believe, that you are his natural and lawful and only next of kin, that you will truly administer his goods, chattels and credits by paying his debts and distributing the residue as far as the same will extend, and the law charge you that you will make a true and perfect inventory of his goods, chattels and credits, and exhibit the same into the registry of the court of and render a just account of your administration when thereunto lawfully required, that the whole of the goods, chattels and credits of this said deceased does not amount in value to the sum of and that he died on or about the day of 185 . So help you God.

The administrator is required to sign a bond with two sureties in a penal sum double the amount of the effects sworn to. The form of the bond in the Prerogative Court is as follows, and the form is similar in other courts:—

FORM OF BOND to be entered into by Administrator and Two Sureties.

KNOW all men, by these presents, that we [names and additions of administrator and two sureties] are become bound unto the most reverend father in God by Divine Provi-

dence Lord Archbishop of Canterbury, Primate of all England and metropolitan, in the sum of pounds of good and lawful money of Great Britain, to be paid to the said most reverend father in God, or his certain attorney, executors, administrators or assigns, for which payment, well and truly to be made, we bind ourselves and each of us for the whole, our heirs, executors and administrators, firmly by these presents. Sealed with our seals. Dated the day of in the year of our Lord one thousand eight hundred and fifty- . The condition of this obligation is such, that if the said [*administrator*] do make or cause to be made a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased which have or shall come to the hands, possession, or knowledge of the said [*administrator*], or into the hands and possession of any other person or persons for him the said [*administrator*], and the same so made do exhibit, or cause to be exhibited, in the registry of the Prerogative Court of Canterbury, at or before the day of next ensuing, and the same goods, chattels and credits, and all other the goods, chattels and credits of the said deceased at the time of his death, which at any time after shall come to the hands or possession of the said [*administrator*] or into the hands or possession of any other person or persons for him, do well and truly administer according to law, and further do make or cause to be made a true and just account of his said administration, at or before the day of , which shall be in the year of our Lord God one thousand eight hundred and . And all the rest and residue of the said goods, chattels and credits, which shall be found remaining upon the said administrator's account, (the same being first examined and allowed of by the judge or judges for the time being of the said court,) shall deliver and pay unto such person or persons respectively, as the said judge or judges, by his or their decree or sentence (pursuant to the true intent and meaning of an act of Parliament, intituled An Act for the better settling of Intestate Estates), shall limit and appoint: And if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same in the said court, making request to have it allowed and proved accordingly, if the said [*administrator*] being thereunto required, do render and deliver the said letters of administration (approbation of such testament being first had and made) in the said court, then this obligation to be void and of none effect, or else to remain in full force and virtue.

Sealed and delivered }
in the presence of }

Common
form busi-
ness.

The cases which are above described are those in which there is no contention, and by far the greater part of the testamentary business of the Ecclesiastical Courts consists of such cases. Probates and administration thus granted, are said to be granted "in common form," and the business thus transacted is technically called "common form business."

Caveat.

It is open, however, to any person who may be desirous of questioning the validity of any testamentary instrument, or the right to administration to cause a caveat against the grant of probate or administration to be entered, which must be done by a proctor. When this is done the probate or administration cannot issue without notice to the person entering it. Proctors are not bound in the first instance to disclose the names of their principals, and the caveats are always entered in the conventional name of "John Thomas." Upon the notice being given, which is technically called "warning the caveat," either the caveat is withdrawn, in which case the grant of probate or administration proceeds in common form, without its being necessary to disclose the name of the person on whose behalf the caveat has been entered; or if the opposition be persisted in, an appearance is entered in the real name of the party opposing, and a suit to determine the validity of the testamentary instrument or the right to the grant of administration then ensues between the parties.

Suits to recall
probate or ad-
ministration.

Probates and letters of administration granted in common form may also be recalled upon suit instituted for the purpose, and where it is desired finally to establish the validity of any testamentary instrument, a suit may be instituted for that purpose also.

Such suits are technically called suits to prove wills "in solemn form."

In all these cases of suits the persons interested are cited, the evidence relating to the validity of the testamentary instrument or the title to administration is regularly taken, and the business in all respects contentious; but after the contention is terminated by the decree of the court, there remains the passing of the probate or of the grant of administration, if decreed, through the offices of the court, which is matter of common form. Such is the course of practice in Doctors' Commons, and a course more or less analogous to it also prevails in the other Ecclesiastical Courts (*m*).

For better securing the duties on probate of wills and letters of administration, it is enacted, that if any person shall take possession of, and in any manner administer, any part of the personal estate and effects of any person deceased, without obtaining probate of the will or letters of administration of the estate and effects of the deceased within six calendar months after his or her decease, or within two calendar months after the termination of any suit or dispute respecting the will, or the right to letters of administration, if there shall be any such, which shall not be ended within four calendar months after the death of the deceased, every person so offending shall forfeit the sum of one hundred pounds, and also a further sum at and after the rate of ten pounds per centum on the amount of the stamp duty payable on the probate of the will or letters of administration of the estate and effects of the deceased (*n*).

Penalty for not proving wills or taking letters of administration.

(*m*) Second Report, Chancery Commissioners, January, 1854, p. 9.

(*n*) 55 Geo. 3, c. 184, s. 37.

This section merely inflicts a penalty upon an executor or administrator personally for not proving the will or taking out letters of administration within a specified time. But it was not intended that the representatives of the deceased should thereby be prevented from taking out probate or letters of administration after that time. The sole object of the statute is to secure the payment of the duty to the revenue (*o*).

Ecclesiastical Courts not to grant probate or letters of administration, without affidavit of the value of effects.

That no Ecclesiastical Court or person shall grant probate of the will or letters of administration of the estate and effects of any person deceased without first requiring and receiving from the person or persons applying for the probate or letters of administration, or from some other competent person or persons, an affidavit, or solemn affirmation in the case of Quakers, that the estate and effects of the deceased, for or in respect of which the probate or letters of administration is or are to be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, but including the leasehold estates for years of the deceased, whether absolute or determinable on lives, if any, and without deducting anything on account of the debts due and owing from the deceased, are under the value of a certain sum to be therein specified to the best of the deponent's or affirmant's knowledge, information and belief, in order that the proper and full stamp duty may be paid on such probate or letters of administration, which affidavit or affirmation shall be made before the surrogate or other person who shall administer the usual oath for the due administration of the estate and effects of the

(*o*) *Per Parke, B., Bodger v. Arch*, 10 Exch. 337.

deceased (*p*). The affidavits required to be made by the act 55 Geo. 3, c. 184, are as follow:—

No. 1.

FOR EXECUTORS OR ADMINISTRATORS WITH WILL ANNEXED.

In the goods of A. B. } In the Prerogative
deceased. } Court of Canterbury.
185 .

Appeared personally [C. D. and E. F.] of [insert the names, residences, titles or professions, of the persons making the affidavit] executors named in the last will and testament [if one or more codicils state the fact] of the said A. B., late of deceased, and made oath (in the case of Quakers, solemnly affirmed) that the said deceased died on or about the day of in the year of our Lord one thousand eight hundred and , and that the estate and effects of the said deceased, which he anyway died possessed of or entitled to, and for or in respect of which the probate of the said will [and codicils if any] is to be granted, exclusive of what the said deceased may have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, [including the leasehold estate or estates for years of the deceased, whether absolute or determinable on a life or lives,] (*q*) and without deducting anything on account of the debts due and owing from the said deceased, are under the value of pounds to the best of these deponents' knowledge, information and belief (*r*).

Sworn before me

No. 2.

FOR ADMINISTRATORS.

In the goods of A. B. } In the Prerogative
deceased. } Court of Canterbury.
185 .

Appeared personally [insert the names, residences, titles or professions, of the persons making the affidavit] the party

(*p*) 55 Geo. 3, c. 184, s. 38.

(*q*) The words in brackets to be omitted if there are no leaseholds.

(*r*) If there are no leaseholds, instead of the above clause in brackets, the following is to be added:—“And they lastly made oath that the said deceased was not possessed of or entitled to any leasehold estate or estates for years either absolute or determinable on lives to the best of these deponents' knowledge, information and belief.”

applying for letters of administration of the estate and effects of the said A. B., late of deceased, and made oath, (in the case of Quakers, solemnly affirmed,) that the said deceased died on or about the day of in the year of our Lord one thousand eight hundred and , and that the estate and effects of the deceased which he anyway died possessed of or entitled to, and for or in respect of which the said letters of administration are to be granted, exclusive of what the said deceased may have been possessed of or entitled to as a trustee for any other person or persons and not beneficially, [including the leasehold estate or estates for years of the said deceased, whether absolute or determinable on a life or lives] (s), and without deducting anything on account of the debts due and owing from the said deceased, are under the value of pounds to the best of this deponent's knowledge, information and belief (t).

Sworn before me

Affidavit to be free from stamp duty, and to be transmitted to Commissioners of Inland Revenue.

Every such affidavit or affirmation shall be exempt from stamp duty, and shall be transmitted to the Commissioners of Inland Revenue, together with the copy of the will or extract or account of the letters of administration to which it shall relate, by the registrar or other officer of the court, whose duty it shall be to transmit copies of wills and extracts, or accounts of letters of administration to the said commissioners, for the better collection of the duties on legacies and successions to personal estate upon intestacy; and if any registrar or other officer whose duty it shall be shall neglect to transmit such affidavit or affirmation to the said commissioners as thereby directed, every person so offending shall forfeit the sum of fifty pounds (u).

Penalty for neglect, 50*l*.

(s) The words in brackets to be omitted if there are no leaseholds.

(t) If there are no leaseholds, instead of the above clause in brackets, the following is to be added:—"And he lastly made oath that the said deceased was not possessed of or entitled to any leasehold estate or estates for years either absolute or determinable on lives to the best of this deponent's knowledge, information and belief."

(u) 55 Geo. 3, c. 184, s. 39; 12 & 13 Vict. c. 1.

It shall be lawful for the Commissioners of Inland Revenue to require of every register or other officer of any ecclesiastical court having the custody or care of any wills proved in any such court, or account or register of any administrations granted in any such court, an account of all such wills and letters of administration, together with the particulars relating thereto, and extracts from any such wills as may seem necessary to such commissioners, on payment of such fees as shall be agreed upon for the same, or as, in case of any dispute, shall be settled and allowed by the Ecclesiastical Court for that purpose; and every such officer as aforesaid is hereby authorized and required, within one month after any such requisition so made by the said commissioners, or any three or more of them, or by any person authorized by them for that purpose, to make out and deliver such account as aforesaid; and if any such register or other officer as aforesaid shall refuse or neglect to make out and deliver any such account as aforesaid within one month after any demand made as aforesaid, or shall knowingly or wilfully make out and deliver any false account, every such register or other officer shall forfeit for every such offence fifty pounds, to be recovered by information in the name of his Majesty's attorney-general, to the use of his Majesty, his heirs and successors (x).

Registers of Ecclesiastical Courts, within one month after being required, shall deliver an account of wills and administrations in their custody to the Commissioners of Inland Revenue, on penalty of 50*l*.

(x) 42 Geo. 3, c. 99, s. 3; 12 & 13 Vict. c. 1.

SECTION II.—*The Amount of Probate and Administration Duty, and the Description of Property liable thereto.*

1. *The Amount of Probate and Administration Duty.*
2. *Of the Description of Property liable to Probate and Administration Duty.*
3. *Of the Exemption of Trust Property.*
4. *Provisions in favour of Savings Banks and Friendly Societies.*



1. *The Amount of Probate and Administration Duty.*

By the stat. 55 Geo. 3, c. 184, schedule, part the third, the following duties are imposed on a probate of a will, and letters of administration with a will annexed, to be granted in England.

Where the estate and effects for or in respect of which such probate or letters of administration respectively shall be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, shall be—

			£	s.	d.
Above the value of					
20 <i>l.</i> and under the value of 100 <i>l.</i>	..	..	0	10	0
Of the value of					
100 <i>l.</i> and under the value of 200 <i>l.</i>	..	..	2	0	0
200 <i>l.</i> and under the value of 300 <i>l.</i>	..	..	5	0	0
300 <i>l.</i> and under the value of 450 <i>l.</i>	..	..	8	0	0
450 <i>l.</i> and under the value of 600 <i>l.</i>	..	..	11	0	0
600 <i>l.</i> and under the value of 800 <i>l.</i>	..	..	15	0	0
800 <i>l.</i> and under the value of 1,000 <i>l.</i>	..	..	22	0	0
1,000 <i>l.</i> and under the value of 1,500 <i>l.</i>	..	..	30	0	0
1,500 <i>l.</i> and under the value of 2,000 <i>l.</i>	..	..	40	0	0
2,000 <i>l.</i> and under the value of 3,000 <i>l.</i>	..	..	50	0	0
3,000 <i>l.</i> and under the value of 4,000 <i>l.</i>	..	..	60	0	0

Amount of Probate and Administration Duty.

19

Of the value of	£	s.	d.
4,000 <i>l.</i> and under the value of 5,000 <i>l.</i>	..	80	0 0
5,000 <i>l.</i> and under the value of 6,000 <i>l.</i>	..	100	0 0
6,000 <i>l.</i> and under the value of 7,000 <i>l.</i>	..	120	0 0
7,000 <i>l.</i> and under the value of 8,000 <i>l.</i>	..	140	0 0
8,000 <i>l.</i> and under the value of 9,000 <i>l.</i>	..	160	0 0
9,000 <i>l.</i> and under the value of 10,000 <i>l.</i>	..	180	0 0
10,000 <i>l.</i> and under the value of 12,000 <i>l.</i>	..	200	0 0
12,000 <i>l.</i> and under the value of 14,000 <i>l.</i>	..	220	0 0
14,000 <i>l.</i> and under the value of 16,000 <i>l.</i>	..	250	0 0
16,000 <i>l.</i> and under the value of 18,000 <i>l.</i>	..	280	0 0
18,000 <i>l.</i> and under the value of 20,000 <i>l.</i>	..	310	0 0
20,000 <i>l.</i> and under the value of 25,000 <i>l.</i>	..	350	0 0
25,000 <i>l.</i> and under the value of 30,000 <i>l.</i>	..	400	0 0
30,000 <i>l.</i> and under the value of 35,000 <i>l.</i>	..	450	0 0
35,000 <i>l.</i> and under the value of 40,000 <i>l.</i>	..	525	0 0
40,000 <i>l.</i> and under the value of 45,000 <i>l.</i>	..	600	0 0
45,000 <i>l.</i> and under the value of 50,000 <i>l.</i>	..	675	0 0
50,000 <i>l.</i> and under the value of 60,000 <i>l.</i>	..	750	0 0
60,000 <i>l.</i> and under the value of 70,000 <i>l.</i>	..	900	0 0
70,000 <i>l.</i> and under the value of 80,000 <i>l.</i>	..	1,050	0 0
80,000 <i>l.</i> and under the value of 90,000 <i>l.</i>	..	1,200	0 0
90,000 <i>l.</i> and under the value of 100,000 <i>l.</i>	..	1,350	0 0
100,000 <i>l.</i> and under the value of 120,000 <i>l.</i>	..	1,500	0 0
120,000 <i>l.</i> and under the value of 140,000 <i>l.</i>	..	1,800	0 0
140,000 <i>l.</i> and under the value of 160,000 <i>l.</i>	..	2,100	0 0
160,000 <i>l.</i> and under the value of 180,000 <i>l.</i>	..	2,400	0 0
180,000 <i>l.</i> and under the value of 200,000 <i>l.</i>	..	2,700	0 0
200,000 <i>l.</i> and under the value of 250,000 <i>l.</i>	..	3,000	0 0
250,000 <i>l.</i> and under the value of 300,000 <i>l.</i>	..	3,750	0 0
300,000 <i>l.</i> and under the value of 350,000 <i>l.</i>	..	4,500	0 0
350,000 <i>l.</i> and under the value of 400,000 <i>l.</i>	..	5,250	0 0
400,000 <i>l.</i> and under the value of 500,000 <i>l.</i>	..	6,000	0 0
500,000 <i>l.</i> and under the value of 600,000 <i>l.</i>	..	7,500	0 0
600,000 <i>l.</i> and under the value of 700,000 <i>l.</i>	..	9,000	0 0
700,000 <i>l.</i> and under the value of 800,000 <i>l.</i>	..	10,500	0 0
800,000 <i>l.</i> and under the value of 900,000 <i>l.</i>	..	12,000	0 0
900,000 <i>l.</i> and under the value of 1,000,000 <i>l.</i>	..	13,500	0 0
1,000,000 <i>l.</i> and upwards..	..	15,000	0 0

Letters of administration, without a will annexed,
to be granted in England.

Where the estate and effects for or in respect of
which such letters of administration shall be
granted, exclusive of what the deceased shall
have been possessed of or entitled to as a trustee

Of the Stamp Duties on Probates, &c.

for any other person or persons, and not beneficially, shall be—

Above the value of		£	s.	d.
20 <i>l.</i> and under the value of 50 <i>l.</i>	.. ..	0	10	0
Of the value of				
50 <i>l.</i> and under the value of 100 <i>l.</i>	.. ..	1	0	0
100 <i>l.</i> and under the value of 200 <i>l.</i>	.. ..	3	0	0
200 <i>l.</i> and under the value of 300 <i>l.</i>	.. ..	8	0	0
300 <i>l.</i> and under the value of 450 <i>l.</i>	.. ..	11	0	0
450 <i>l.</i> and under the value of 600 <i>l.</i>	.. ..	15	0	0
600 <i>l.</i> and under the value of 800 <i>l.</i>	.. ..	22	0	0
800 <i>l.</i> and under the value of 1,000 <i>l.</i>	.. ..	30	0	0
1,000 <i>l.</i> and under the value of 1,500 <i>l.</i>	.. ..	45	0	0
1,500 <i>l.</i> and under the value of 2,000 <i>l.</i>	.. ..	60	0	0
2,000 <i>l.</i> and under the value of 3,000 <i>l.</i>	.. ..	75	0	0
3,000 <i>l.</i> and under the value of 4,000 <i>l.</i>	.. ..	90	0	0
4,000 <i>l.</i> and under the value of 5,000 <i>l.</i>	.. ..	120	0	0
5,000 <i>l.</i> and under the value of 6,000 <i>l.</i>	.. ..	150	0	0
6,000 <i>l.</i> and under the value of 7,000 <i>l.</i>	.. ..	180	0	0
7,000 <i>l.</i> and under the value of 8,000 <i>l.</i>	.. ..	210	0	0
8,000 <i>l.</i> and under the value of 9,000 <i>l.</i>	.. ..	240	0	0
9,000 <i>l.</i> and under the value of 10,000 <i>l.</i>	.. ..	270	0	0
10,000 <i>l.</i> and under the value of 12,000 <i>l.</i>	.. ..	300	0	0
12,000 <i>l.</i> and under the value of 14,000 <i>l.</i>	.. ..	330	0	0
14,000 <i>l.</i> and under the value of 16,000 <i>l.</i>	.. ..	375	0	0
16,000 <i>l.</i> and under the value of 18,000 <i>l.</i>	.. ..	420	0	0
18,000 <i>l.</i> and under the value of 20,000 <i>l.</i>	.. ..	465	0	0
20,000 <i>l.</i> and under the value of 25,000 <i>l.</i>	.. ..	525	0	0
25,000 <i>l.</i> and under the value of 30,000 <i>l.</i>	.. ..	600	0	0
30,000 <i>l.</i> and under the value of 35,000 <i>l.</i>	.. ..	675	0	0
35,000 <i>l.</i> and under the value of 40,000 <i>l.</i>	.. ..	785	0	0
40,000 <i>l.</i> and under the value of 45,000 <i>l.</i>	.. ..	900	0	0
45,000 <i>l.</i> and under the value of 50,000 <i>l.</i>	.. ..	1,010	0	0
50,000 <i>l.</i> and under the value of 60,000 <i>l.</i>	.. ..	1,125	0	0
60,000 <i>l.</i> and under the value of 70,000 <i>l.</i>	.. ..	1,350	0	0
70,000 <i>l.</i> and under the value of 80,000 <i>l.</i>	.. ..	1,575	0	0
80,000 <i>l.</i> and under the value of 90,000 <i>l.</i>	.. ..	1,800	0	0
90,000 <i>l.</i> and under the value of 100,000 <i>l.</i>	.. ..	2,025	0	0
100,000 <i>l.</i> and under the value of 120,000 <i>l.</i>	.. ..	2,250	0	0
120,000 <i>l.</i> and under the value of 140,000 <i>l.</i>	.. ..	2,700	0	0
140,000 <i>l.</i> and under the value of 160,000 <i>l.</i>	.. ..	3,150	0	0
160,000 <i>l.</i> and under the value of 180,000 <i>l.</i>	.. ..	3,600	0	0
180,000 <i>l.</i> and under the value of 200,000 <i>l.</i>	.. ..	4,050	0	0
200,000 <i>l.</i> and under the value of 250,000 <i>l.</i>	.. ..	4,500	0	0
250,000 <i>l.</i> and under the value of 300,000 <i>l.</i>	.. ..	5,625	0	0
300,000 <i>l.</i> and under the value of 350,000 <i>l.</i>	.. ..	6,750	0	0
350,000 <i>l.</i> and under the value of 400,000 <i>l.</i>	.. ..	7,875	0	0
400,000 <i>l.</i> and under the value of 500,000 <i>l.</i>	.. ..	9,000	0	0
500,000 <i>l.</i> and under the value of 600,000 <i>l.</i>	.. ..	11,250	0	0
600,000 <i>l.</i> and under the value of 700,000 <i>l.</i>	.. ..	13,500	0	0

Of the value of	£	s.	d.
700,000 <i>l.</i> and under the value of 800,000 <i>l.</i> ..	15,750	0	0
800,000 <i>l.</i> and under the value of 900,000 <i>l.</i> ..	18,000	0	0
900,000 <i>l.</i> and under the value of 1,000,000 <i>l.</i> ..	20,250	0	0
1,000,000 <i>l.</i> and upwards ..	22,500	0	0

Exemptions from all Stamp Duties.

Probate of will, letters of administration, confirmation of testament, and eik thereto, and inventory of the effects of any common seaman, marine, or soldier who shall be slain or die in the service of his Majesty, his heirs or successors (*y*):

Additional inventory to be exhibited and recorded in any Commissary Court in Scotland; where the same shall not be liable to a duty of greater amount than the duty already paid upon any former inventory exhibited and recorded of the estate and effects of the same person.

It is to be observed that all the powers, provisions, clauses, regulations and directions, fines, forfeitures, pains and penalties contained in and imposed by the several Acts of Parliament relating to the duties repealed by the 55 Geo. 3, c. 184, and the several Acts of Parliament relating to any prior duties of the same kind or description, shall be of full force and effect with respect to the duties thereby granted and to the vellum, parchment and paper, instruments, matters and things charged or chargeable therewith as far as the same are or shall be applicable in all cases not thereby expressly provided for, and shall be observed, applied, enforced and put in execution for the raising, levying, collecting and securing of the duties thereby granted and otherwise relating thereto, so far as the

Powers and provisions of former acts to extend to the 55 Geo. 3, c. 184.

(*y*) As to the exemption from stamp duty of the administration of the effects of persons dying intestate belonging to the Indian army, see 3 & 4 Vict. c. 37, s. 50.

same shall not be superseded by, and shall be consistent with, the express provisions of that act, as fully and effectually to all intents and purposes as if the same had been therein repeated and specially enacted with reference to the said duties thereby granted (z).

2. *Of the Description of Property liable to Probate and Administration Duty.*

It seems that the executor or administrator is bound to take out the grant to the extent of the sum which he expects to receive (a). But on proving a will, the executor need not, in the amount for which probate duty is paid, include debts due to the testator which are either desperate or doubtful, and the executor has a right to exercise his judgment fairly and *bonâ fide* whether a debt is doubtful or bad (b).

The value of the property with reference to probate duty is to be taken at the time of the grant, and not of the death of the testator. Where land had been improved in value by building between the owner's death and the grant of administration of his estate, stamp duty on the letters of administration is payable for the improved value (c).

The probate duty has reference to the situs of the property within the limit of the court granting probate. By the Act of Parliament the duty upon the probate is only imposed in respect of that fund, which the executor is to obtain in a particular province of this country by force of the probate. If there be a

(z) 55 Geo. 3, c. 184, s. 8.

(a) *Butler v. Butler*, 2 Phillim. 39.

(b) *Moses v. Crafster*, 4 Carr. & P. 524.

(c) *Doe d. Richards v. Evans*, 10 Q. B. 476.

personal estate in the provinces of York and Canterbury, and a probate be taken out in the province of York, the duty is paid upon the property in that province only, and it is not paid upon the other property until a probate be taken out in the province of Canterbury (*d*).

It is now settled that the duty is to be regulated not by the value of all the assets which an executor or administrator may ultimately administer by virtue of the will or letters of administration, but by the value of such parts as are at the death of the deceased within the jurisdiction of the spiritual judge by whom the probate or letters of administration are granted. Therefore probate duty is not payable on French rentes belonging to an English subject, who at his death was resident in England, although the executor after the testator's death had sold them, and the proceeds of such sale were placed to his account as executor with bankers here (*e*). In *Attorney-General v. Hope* (*f*), the House of Lords held, that probate duty was not payable in respect of such parts of the testator's assets as were situate in America at the time of his death, and the broad ground on which that decision rested was, that probate duty is granted in respect of such part only of the assets as the executor can recover by virtue of the probate, being in fact that property which but for the will the ordinary would in early times have been entitled to apply *in pios usus*. M., a merchant domiciled in England, died, having made his will, leaving a large personal estate, partly situate in England, and partly in the United States of North

(*d*) Per *Alexander*, C. B., *Re Ewin*, 1 Cr. & Jerv. 153, 154; 1 Tyrw. 104, 107.

(*e*) *Attorney-General v. Dimond*, 1 C. & Jerv. 356; 8 Bligh. N.S. 44.

(*f*) 1 Cr. M. & R. 530; 2 Cl. & Fin. 84.

America. The executors appointed by his will, who were also domiciled in England, upon obtaining probate, paid a duty to the Crown limited to the value of the effects in England, but proceeded to collect and administer all the personal estate of their testator both in England and America. Upon an information filed by the Attorney-General on behalf of the Crown, making these allegations, and claiming probate duty upon the whole personal estate, and a general demurrer to that information, it was held that the probate duty was not payable upon that part of the effects which was in America (*g*). In *Pearse v. Pearse* (*h*), the testator who was domiciled in England, had, in the hands of his agents in India, certain securities of the Indian government, the principal and interest of which was payable in India, either in cash or by bills on the East India Company, at the option of the creditor; shortly before his death, he accepted an offer made by the company to have his notes converted into stock, to be registered in England and to be saleable and transferable there; the conversion was not completed at the testator's death, nor until after his will had been proved in England; but ultimately the stock was transferred to his executors. It was held by *Shadwell*, V. C., on the authority of the *Attorney-General v. Hope*, that no probate duty was payable in respect either of the notes or the stock.

Probate duty
on bonds of
foreign
states.

Probate duty is payable in respect of the value of certain written instruments which are not under seal but merely certificates of the right of the holders to

(*g*) *Attorney-General v. Hope*, 2 Cl. & Fin. 84; 8 Bligh. N. S. 44.

(*h*) 9 Sim. 480.

claim the amounts therein specified from the respective governments, and incorrectly called Russian, Danish and Dutch bonds, of which a testator dying in this country was the holder at the time of his death, and which have come to the hands of his executor in this country, such bonds being marketable securities within this kingdom and transferable by delivery only, and it not being necessary to do any act out of this kingdom in order to render the transfer of them valid (i). On this occasion Lord *Abinger* said :—" Whatever may have been the origin of the jurisdiction of the ordinary to grant probate, it is clear that it is a limited jurisdiction, and can be exercised in respect of those effects only which he would have had himself to administer in case of intestacy, and which must therefore have been so situated as that he could have disposed of them *in pios usus*. As to the locality of many descriptions of effects, household and moveable goods for instance, there never could be any dispute. But to prevent conflicting jurisdictions between different ordinaries, with respect to choses in action and titles to property, it was established as law that judgment debts were assets for the purposes of jurisdiction where the judgment is recorded; leases, where the land lies; specialty debts, where the instrument happens to be; and simple contract debts, where the debtor resides at the time of the testator's death. And it was also decided, that, as bills of exchange and promissory notes do not alter the nature of the simple contract debts, but are merely evidences of title, the debts due on these instruments were assets where the debtor lived, and not where the instrument was found. In truth, with respect

(i) *Attorney-General v. Bouwens*, 4 M. & W. 171.

to simple contract debts, the only act of administration that could be performed by the ordinary, would be to recover or to receive payment of the debt, and that would be done by him within whose jurisdiction the debtor happened to be.

“These distinctions being well established, it seems to follow, that no ordinary in England could perform any act of administration within his diocese with respect to debts due from persons resident abroad, or with respect to shares or interests in foreign funds payable abroad and incapable of being transferred here; and, therefore, no duty would be payable on the probate or letters of administration in respect of such effects. But, on the other hand, it is clear that the ordinary could administer all chattels within his jurisdiction; and, if an instrument is created of a chattel nature, capable of being transferred by acts done here, and sold for money here, there is no reason why the ordinary or his appointee should not administer that species of property. Such an instrument is in effect a saleable chattel, and follows the nature of other chattels as to the jurisdiction to grant probate. In this case, assuming that the foreign governments are liable to be sued by the legal holder, there is no conflict of authorities, for their governments are not locally within the jurisdiction, nor can be sued here; and no act of administration can be performed in this country except in the diocese where the instruments are, which may be dealt with and the money received by their sale in this country. Let us suppose the case of a person dying abroad, all whose property in England consists of foreign bills of exchange, payable to order, which bills of exchange are well known to be the subject of commerce and

to be usually sold on the Royal Exchange. The only act of administration which his administrator could perform here, would be to sell the bills and apply the money to the payment of his debts. In order to make titles to the bills to the vendee, he must have letters of administration; in order to sue in trover for them, if they are improperly withheld from him, he must have letters of administration (for even if there were a foreign administration it is an established rule that an administration is necessary in the country where the suit is instituted (*h*)), and that these letters of administration must be stamped with a duty according to the saleable value of the bills, the case of *Hunt v. Stevens* (*i*) is an express authority."

If this be the law in the supposed case, it is impossible to distinguish it from that under consideration. Here are valuable instruments in England, the subjects of ordinary sale; the debtors by virtue of such instruments, if there are any, resident abroad, out of the jurisdiction of any ordinary, and consequently there being no fear of conflicting rights between the jurisdictions who are to grant probate. If these were the *only* effects in England of the deceased (a supposition which would simplify the case), there would be no question as to the necessity of probate, not only to make title to them by sale to any one who knew they were the property of the deceased, or chose to inquire into the title, but certainly in order to sue for them against a wrong doer, against a banker for instance, who had received them from the deceased, and refused to deliver them to

(*h*) See Story, *Conflict of Laws*, s. 514, 2nd ed.

(*i*) 3 Taunt. 113.

the executor or administrator; and the probate must surely be stamped according to the value of the only effects which could be sold, disposed of or recovered under it. And if this be true, if they were the only effects, it must be true that the duty must be paid on their value if they form part of the effects of the deceased. We think, therefore, that in this case these instruments are in the nature of valuable chattels, saleable here, and which can be administered here, and therefore that their amount should be included in the value of the testator's effects. The crown, therefore, is entitled to judgment" (*k*).

Probate duty payable irrespective of domicile of deceased.

If a testator has died out of Great Britain, with a *domicile abroad*, although he may have personal property that is in Great Britain at the time of his death, in contemplation of law that property is supposed to be situate where he was domiciled, and therefore does not come within the act imposing *legacy duty* (*l*). Lord *Campbell*, in his judgment, observed, "I think that this caution should be introduced, that this applies only to legacy duty, *not* to probate duty. With respect to the probate duty, if it is necessary to take out probate, the property *being in Great Britain*, for the purpose of administering that property, the property would still be considered as situate in Great Britain, and the probate duty would attach" (*m*). Lord *Lyndhurst* also observed, in the same case, if a will is made by a foreigner resident abroad, and it is necessary to administer his estate in England, probate must be taken out for that purpose, and probate duty be-

(*k*) *Attorney-General v. Bouwens*, 4 Mees. & W. 190—192.

(*l*) See *post*, Chap. III., Sect. III.

(*m*) *Thompson v. Advocate-General*, 12 Cl. & Fin. 29.

comes payable upon the mere taking out the probate (n).

Although probate duty is only payable on property situate within the jurisdiction of the Court of Probate at the time of the testator's death, English courts, in administering the personal property of a deceased person, will not take notice of any will of personalty, or of the title of any personal representative that has not been recognized or constituted by an Ecclesiastical Court here (o). *Tindal*, C.J., observed, in giving judgment (p), it is well established, that in the case of a British subject dying intestate in the colonies, or in foreign countries, a prerogative administration extends to all the personal property of the intestate, wherever situate at the time of his death, whether in Great Britain or in the colonies, or in any country abroad (q). It is also well established, that in order to sue in any court of this country, whether of law or equity, in respect of the personal rights or property of an intestate, the plaintiff must appear to have obtained letters of administration in the proper spiritual court of this country (r). The decision in *M' Mahon v. Rawlings* (s), where a plaintiff was allowed to sue as personal representative, under colonial letters of administration, without having obtained administration in this country, is questionable.

All personal property follows the person, and

(n) *Thompson v. Advocate-General*, 12 Cl. & Fin. 15.

(o) *Price v. Dewhurst*, 4 Myl. & Cr. 80; *Bond v. Graham*, 1 Hare, 482.

(p) *Whyte v. Rose*, 3 Q. B. 507.

(q) *Scarth v. Bishop of London*, 1 Hagg. Ecc. Rep. 625.

(r) *Whyte v. Rose*, 3 Q. B. 507. See also *Spratt v. Harris*, 4 Hagg. Ecc. Rep. 405; *Price v. Dewhurst*, 4 Myl. & Cr. 76.

(s) 16 Sim. 429.

English probate necessary for administering property out of jurisdiction.

the rights of a person, constituted in England representative of a party deceased, domiciled in England, are not limited to the personal property in England, but extend to such property wherever locally situate, although a testator may appoint different persons for the representation and distribution of his property in different places (*t*). A., resident, but not domiciled, in France makes a testamentary paper relating to property in France and to personalty and realty in England; and a second paper solely relating to property in France and disposing of the whole of it to a woman with whom he cohabited, but appointed no executor in either paper, nor residuary legatee, nor devisee of his property in England; it was held that his widow was entitled to administration with both papers annexed (*u*). If a will be made in a foreign country and proved there, disposing of personal property in this country, the executor must prove the will here also (*x*). So, if the testator was domiciled in Scotland, and left effects there and in England, the will is proved, in the first instance, in the Court of Great Sessions in Scotland, and a copy duly authenticated, being transmitted here, it is proved in the Ecclesiastical Court, and deposited as if it were an original will (*y*). Again, if the testator was domiciled in Ireland, the will is proved by the Spiritual Court of that country, or if in the East or West Indies, in the Probate Court there, and a copy transmitted, proved and deposited in the

(*t*) *Spratt v. Harris*, 4 Hagg. Ecc. Rep. 408. See Wentworth on Executors, 22—29, 14th edit; *Bruce v. Bruce*, 2 Bos. & Pull. 229, n.; *Somerville v. Somerville*, 5 Ves. 750.

(*u*) *Spratt v. Harris*, 4 Hagg. Ecc. Rep. 405.

(*x*) *Lee v. Moore*, Palm. 163; *Tourton v. Flower*, 3 P. Wms. 369; *Venthiennen v. Venthiennen*, Fitz Gib. 204.

(*y*) Toller, 70.

same manner (*x*). Where a testator had died in India, domiciled there, and leaving no assets in England, it was held that a personal representative constituted in this country was a necessary party to a bill seeking an account of the assets possessed by the personal representative in India (*a*). Lord *Cottenham*, C., observed, "The Courts in this country, for the security of property, will not administer the property of a person deceased in the absence of a person authorized to represent the estate, and they look only to the judgment of the Ecclesiastical Courts in this country, in granting probate or letters of administration, to ascertain who are so authorized, and it is immaterial what Ecclesiastical Court in this country has granted probate or letters of administration, provided the state of the property was such as to give it jurisdiction" (*b*). In *Whyte v. Rose* (*c*), it was decided, that a party to whom letters of administration had been granted by the Archbishop of Canterbury of the goods and chattels of an intestate who died in Nova Scotia could maintain an action against the defendant, in an English Court of Law, upon a bond given to the intestate in her lifetime, which, at the time of her death, was at Dublin, in the kingdom of Ireland; and that the plaintiff was not bound to show, in addition, that he had taken out letters of administration in the Spiritual Court of Ireland; and that the *bona nota*-

(*a*) Toller, 70. See *Raymond v. De Watteville*, 2 Cas. tem. Lee, 358; as to the proper authentication of the copy of a will proved and deposited in the court of a foreign state, 1 Wms. Exors. 302, 303, 4th edit.

(*a*) *Tyler v. Bell*, 2 My. & Cr. 89.

(*b*) *Tyler v. Bell*, 2 My. & Cr. 109; *Tourton v. Flower*, 3 P. Wms. 369; *Atkins v. Smith*, 2 Atk. 63; *Swift v. Swift*, 1 Ball & B. 326; *Attorney-General v. Cockerell*, 1 Price, 179; *Lowe v. Fairlie*, 2 Madd. 101; *Logun v. Fairlie*, 2 Sim. & S. 284.

(*c*) 3 Q. B. 493.

bilis found in Ireland were, in contemplation of law, the same as if found in any other place out of the realm, as Scotland for instance, or the colonies, or France, or any other foreign country. If the plaintiff, in this case, had, in the first instance, taken out administration in the proper Spiritual Court of Ireland, for the purpose of administering the bond, which was found in Ireland, he could not have sued in England upon such letters of administration, but must have also taken out administration in England from the proper Spiritual Court there (*d*).

Probate duty
on execution
of general
power by
will.

The doctrine at one time was that where a party has a general power under a settlement over a trust fund of personalty, which he may exercise either by deed or will, and he elects to exercise it by a testamentary instrument, probate duty must be paid in respect of the fund (*e*).

M. S. by will bequeathed certain stock in the funds to trustees, to stand possessed thereof on such trusts and for such purposes, and subject to such powers and declarations, as J. S. by deed, with or without power of revocation and new appointment or by will should appoint, and in default of appointment, in trust to pay J. S. the dividends for life, and after her decease, to divide the principal among her children then living. After the testator's death, J. S. duly executed a deed, according to the form prescribed by the will, by which deed, after reciting her desire to execute the power vested in her by the will of M. S., she directed the trustees to transfer the fund to herself and a new trustee,

(*d*) 3 Q. B. 493. *Carter v. Crafts*, Godb. 33, where the court said that an administrator made by an Irish bishop could not bring an action *here* as administrator.

(*e*) *Palmer v. Whitmore*, 5 Sim. 178.

upon such trusts, for such purposes, and subject to such powers, &c. as she should by any deed, with or without power of revocation and new appointment, or by her last will direct and appoint, with certain limitations over in default of appointment, similar to those contained in the will. Under this deed the stock was transferred into her own name and that of her co-trustee. Afterwards, J. S. by will, made by virtue and in execution of the last-mentioned power, reserved to her by that deed, and of all other powers, appointed the stock to be transferred to certain persons in trust, that it might be consolidated with and become part of her residuary personal estate, and follow the dispositions thereafter contained. It was held that the estate of J. S. was subject to the probate duty in respect of the property in question, because it, by the execution by will of the second power of appointment, became her personal property, and liable to her debts, and she being not a mere trustee, but having a beneficial interest, the case came within the very words of the 38th section of 55 Geo. 3, c. 184, and clearly within the spirit and meaning of it (*f*).

A married woman having a testamentary power of appointment over a fund, exercised it in favour of her husband, whom she appointed her executor; the Court of Chancery would not direct the fund to be transferred into court, on the ground that the plaintiff claimed as executor of his wife, and that the probate was not on the proper stamp, which ought to cover the whole amount of the fund which might be required to pay the wife's debts (*g*).

(*f*) *Attorney-General v. Staff*, 2 Cr. & M. 124; 4 Tyrw. 14. See *ante*, p. 14.

(*g*) *Nail v. Punter*, 5 Sim. 563.

Probate duty
not payable
on money
appointed in
execution of
power.

But the three last cases are now overruled. In *Vandiest v. Fynmore* (h), the testator by his will, dated the 12th of February, 1811, devised the residue of his property to trustees, in trust, out of the interest, dividends or annual produce thereof, to pay to Ann Hart an annuity of 1,000*l.*, for her separate use for her life, and then proceeded as follows: — “I moreover empower the said Ann Hart to dispose of and bequeath the sum of 5,000*l.*, or any part thereof, out of my effects, by her will duly executed, to any person or persons, and in such manner, and under such conditions, as she shall by her said will think proper; and my executors shall, out of my effects, pay the said sum, or any part thereof accordingly, in virtue of such will.” The testator died on the 17th of April, 1814, and probate duty was paid in respect of his estate. Ann Hart died on the 10th of January, 1831, having by her will disposed of the 5,000*l.*, in pursuance of the power given to her by the testator’s will. *Shadwell*, V. C., held that probate duty was not payable a second time in respect of this fund, because here the power was given by the will of the original testator, and the appointees of Ann Hart took as if they had been named in his will. In the subsequent case of *Platt v. Routh* (i), J. R. by his will, after directing his real estates to be sold and converted into personalty, gave the general residue of his personal estate to his daughter, J. A.

(h) 6 Sim. 570. See *Platt v. Routh*, 6 Mees. & W. 794, where the judges of the Court of Exchequer said that they did not concur in the reasons which the Vice-Chancellor is represented as considering this case distinguishable from those which preceded it.

(i) 6 Mees. & W. 756.

P., and J. R., J. S. and J. G., his executrix and executors, upon trust, to permit his said daughter to receive the rents and dividends thereof during her life, and after her decease upon trust for such person or persons (other than and except J. W. and his relations, M. H. and his relations, and the relations of the late husband of the testator's said daughter, and every of them), in such parts, shares and proportions, and in such manner and form, as the said J. A. P., whether sole or covert, should by will appoint, and in default of appointment, in trust for the next of kin of D. R. And the testator declared, that in case his said daughter should intermarry with the said J. W., or any of his relations, or should reside with or receive visits from him or them, the bequests in her power should utterly cease. After the testator's death, the said J. A. P. married G. E. P., and the interest and dividends of the testator's residuary estate were regularly paid to her until her death. Previously to her death she made a will, and thereby, in exercise of the power under her father's will, she gave 10,000*l.* consols, to the descendants of the before-named D. R., and gave all the rest of her late father's property to various persons, strangers in blood to both her father and herself. D. R. was the son of a brother of J. R., the testator. It was held, that no probate duty was payable upon the probate of the will of J. A. P. in respect of the estate and effects bequeathed and appointed by her will (i). The court, in giving judgment, observed, with regard to the question of the probate duty, we are of opinion that no duty is payable on the probate of the will of J. A. P.

(i) *Platt v. Routh*, 6 Mee. & W. 756.

in respect of the residuary estate of her father. We are aware that this opinion is directly opposed to the decision of this court in *The Attorney-General v. Staff* (k), as also to the previous case of *Palmer v. Whitmore*, before the Vice-Chancellor (l). But these cases both proceeded on the ground that property subject to a general power of appointment forms part of the property "for or in respect of which the probate is granted," and it appears to us impossible to reconcile that doctrine with the subsequent decision of the House of Lords in *The Attorney-General v. Hope* (m). In that case, which was very fully considered, the House of Lords held, that probate duty was not payable in respect of such parts of the testator's assets as were situate in America at the time of his death, and the broad ground on which that decision rested, was, that probate duty is granted in respect of such part only of the assets as the executor can recover by virtue of the probate being in fact that property which, but for the will, the ordinary would, in early times, have been entitled to apply *in pios usus*. Now, although J. A. P. had what we consider an absolute power of appointment over the property in question, yet it is clear that the ordinary never could, under any circumstances, have had any right whatever to interfere with it, and it is also certain that, whether probate be granted or not, the executor, *quod* executor, can have no title to any part of the property. Lord *Lyndhurst*, in delivering the judgment of the court in *The Attorney-General v. Staff* said, that that case, which

(k) 2 Cr. & M. 124. *Ante*, p. 33.

(l) 5 Sim. 178. *Ante*, p. 32.

(m) 1 Cr. M. & R. 530. *Ante*, p. 23.

was exactly similar to the present, came within the very words of the 38th section of 55 Geo. 3, c. 184. But that is in fact begging the whole question. The words of the 38th section are, that the person applying for probate shall make oath that the estate and effects of the deceased *for or in respect of which the probate is to be granted*, exclusive of property of which the testator was possessed as trustee, and not beneficially, are under a certain sum. The question is, whether property, circumstanced like the present, is property of the deceased *for or in respect of which the probate is granted*; and the House of Lords, having decided that the probate is granted in respect only of that property which, but for the will, the ordinary would have been entitled to administer, and it being quite clear that neither the ordinary nor the executor ever could have administered any part of this property, we cannot hold that this is property *for or in respect of which the probate is granted*. It might be sufficient for us to stop here, to say, that as it appears to us impossible to reconcile *The Attorney-General v. Staff* with the subsequent case in the House of Lords, we are bound to act on the latter authority. But it is right that we should also add, that even independently of the authority of the case in the House of Lords, there would be many serious difficulties resulting from the doctrine of *The Attorney-General v. Staff*, which do not seem to have occurred to the court when that case was decided. The executor is the party who is to pay the duty, and the only funds to which he can resort for reimbursement are the general assets. What then is he to do in a case like the present, where the fund to be appointed is very large, and the

general assets very small, it may, and probably in the present case would happen, that the duty would far exceed the whole of the assets which the executor can ever possess. The consequence would be, that he never would be able to prove at all. In the 45 and following sections of the 55 Geo. 3, c. 184, provision is made for enabling the commissioners of stamps to grant probate on credit where the assets realized are not sufficient to enable the executor to pay the duty. But in such case, the full amount is made a debt, due from the executor, and it is plain, from the nature of the provisions, that the legislature did not contemplate the possibility of a case in which the duty could ever eventually exceed the amount of the assets realized by the executor, as it certainly may if the doctrine in *The Attorney-General v. Staff* is followed" (n).

The case of *Platt v. Routh* was affirmed by the House of Lords on the ground that the property appointed was not property which, within the meaning of the act, as applied to the schedule imposing probate duty, was so completely the property of the testatrix, as to render it liable to duty (o).

The profits arising from the tolls received under a grant of a light-house are in the nature of realty, and not liable to either probate or legacy duty (p).

Probate duty is not payable in respect of land directed to be converted into money.

In *Matson v. Swift* (q), it was decided that probate duty is not payable in respect of the produce of real estates which had been directed to be converted into money. In this case John Swift, being

(n) *Platt v. Routh*, 6 Mee. & W. 756. See pp. 790—792.

(o) *Drake v. Attorney-General*, 10 Cl. & Fin. 257; *Platt v. Routh*, 3 Beav. 257.

(p) *Attorney-General v. Jones*, 1 Hall. & T. 493; 1 Mac. & G. 574.

(q) 8 Beav. 368.

indebted on mortgages, bonds and otherwise to several persons, executed an indenture, dated the 14th of November, 1836, and thereby conveyed the estates, subject to the mortgages, together with some other estates, to two trustees in fee, in trust, when they in their discretion should think proper, without the consent or concurrence of Swift, by mortgage, sale, lease or other disposition of the estates, to raise such money as they should think necessary, and stand possessed thereof, in trust thereout to pay certain costs, and then the mortgage bond and other debts therein mentioned, and after and subject to the answering of such trusts "on trust to pay the surplus, if any, to Swift, his executors, administrators and assigns, and that without any claim or equity thereon, by or in favour of the heir or real representative of Swift, notwithstanding that the said trust estate, or any part thereof, should or might remain unconverted at the time of his death." On the 24th of January, 1837, Swift died, before any part of the estate was sold. He left a will, in which he appointed his wife executrix, and she alone proved the will. In September, 1839, the trustees sold part of the estate, and soon afterwards contracted to sell the remainder. Their contract for that purpose had since been carried into execution, under the directions of the Court of Chancery. After deducting from the purchase-money the costs of executing the trusts, and the amount of the debts secured by the deed, there remained a surplus of 10,832*l.* 1*s.* 3*d.*, in respect of which the commissioners of stamps claimed to be entitled to payment of probate duty. In giving judgment in this case, Lord *Langdale*, M. R., observed, "In the present case an actual conversion was required, and has

accordingly been made since the testator's death, and the produce of the sale has been by this court treated as the personal estate of the deceased, but I am of opinion that the crown is not entitled to any benefit from the conversion so made, and that the interest of the deceased in the property was not subject to probate duty, because, in fact, the interest of the deceased existed in the form of an equitable interest in land of inheritance, and not in the form of personal estate, in which form alone the administration of it could be granted by the probate. The probate, so far as it relates to the grant of administration, has regard only to the personal estate within the jurisdiction which the deceased had whilst living and at the time of his death, and the probate duty is payable only upon the personal estate in respect of which the probate was granted; *i.e.*, upon personal estate within the jurisdiction which the deceased had whilst living and at the time of his death. Goods, chattels and credits constitute a personal estate in respect of which probate is granted. An equitable interest in land of inheritance, or equities founded solely on the right to such land, and attached to the ownership, do not constitute personal estate, although the owner may have so dealt with the land that he can receive the benefit of it only in the shape of money, by means of a conversion, to be made under the authority of this court, in the execution of trusts which he has created. I am of opinion that the ordinary has no jurisdiction over such property, and that the person to whom administration is granted, has not, by virtue only of the grant of administration contained in the probate only, any right to the administration of such property. In cases of this sort, ambiguity

may have arisen from the figurative or metaphorical language in which the equitable doctrine is expressed, and also from the twofold character of probate, which, besides granting administration, authenticates the will and is evidence of the character of the executor. The probate, as evidence of the will and of the character of executor, may be required for the purpose of proving the executor's title to personal estate, which may not be comprised in the grant of administration contained in the same probate. In the present case I am of opinion that the money to arise, and which in this case did afterwards arise, from the sale of the estates comprised in the deed of November, 1836, was not personal estate in respect of which the probate was granted, and that probate duty is not payable upon it."

The last case was relied on by *Wigram, V. C.*, in *Custance v. Bradshaw (r)*, in which it was held that the share of a deceased partner in the freehold and copyhold estates of the partnership is not personal estate, for the purpose of being included in the value or amount in respect of which probate duty is payable.

3. Of the Exemption of Trust Property.

The schedule of the statute 55 Geo. 3, c. 184 (s), Exemption of trust property. imposes an *ad valorem* duty where the estate is above 20*l.* in value, exclusive of what the deceased shall have been possessed of, or entitled to, as a trustee and not beneficially. In *Carr v. Roberts (t)*, an intestate had granted an annuity to Ann Smith, and afterwards by deed conveyed his property to

(r) 4 Hare, 315.

(s) See *ante*, pp. 18, 19.

(t) 2 B. & Ad. 905.

the defendant, who covenanted to indemnify him against the payment of the annuity. Default having been subsequently made in the payment, during the intestate's lifetime, the annuitant sued his administratrix, and recovered judgment for debt and costs exceeding 20*l*. The administratrix paid this, and then sued the defendant on his covenant for the amount. It was held, that the right to recover this sum was a part of the intestate's estate, and rendered the letters of administration liable to stamp duty, and that the intestate, if he had lived, could not have been considered in respect of this sum as a mere trustee for the annuitant and having no beneficial interest. Lord Tenterden, C. J., in giving judgment in this case, after stating the words of the act, observed, that this provision was made for the exemption of mere trustees, as where property is mortgaged in trust, in which case, if the mortgagee's representative were bound to pay the whole amount of the duty, great injustice would be done. Here, Walker, the intestate, did not stand in the position of a mere trustee, for he had a beneficial interest in the covenant, since he was liable, in the first instance, to Smith, and had an interest in obtaining payment of her annuity from the defendant to relieve himself.

Probates of wills and letters of administration valid as to trust property, though the value thereof be not covered by the stamp duty.

The probate of the will of any person deceased, or the letters of administration of the effects of any person deceased, shall be deemed and taken to be valid and available by the executors or administrators of the deceased, for recovering, transferring or assigning any debt or debts, or other personal estate or effects, whereof or whereto the deceased was possessed or entitled, either wholly or partially, as a trustee, notwithstanding the amount or value

of such debt or debts, or other personal estate or effects, or the amount or value of so much thereof, or such interest therein, as was trust property in the deceased (as the case may be), shall not be included in the amount or value of the estate, in respect of which the stamp duty was paid on such probate or letters of administration (u).

Where the executors or administrators of any person deceased shall be desirous of transferring or of receiving the dividends of any share, standing in the name of the deceased, of and in any of the government or parliamentary stocks or funds, transferable at the Bank of England, or of and in the stock and funds of the governor and company of the Bank of England, or of and in the stock and funds of any other company, corporation or society whatsoever, passing by transfer in the books of such company, corporation or society, under and by virtue of any such probate or letters of administration as aforesaid, and shall allege that the deceased was possessed thereof or entitled thereto, either wholly or partially, as a trustee, it shall be lawful for the said governor and company of the Bank of England, and for any such other company, corporation or society as aforesaid, or their respective officers, for their indemnity and protection, to require such affidavit or affirmation of the fact, as hereinafter is mentioned, if the fact shall not otherwise satisfactorily appear; and thereupon to permit such executors or administrators to transfer the stock or fund in question, or receive the dividends thereof, without regard to the amount of the stamp duty on the probate of the will of the deceased, or the letters of administration of his or her effects. And where

Where executors, &c. allege, that any property was vested in the deceased, as a trustee, a special affidavit may be required of the facts.

(u) 48 Geo. 3, c. 149, s. 35.

the executors or administrators of any person deceased shall have occasion to recover any debt or debts, or other personal effects, due or apparently belonging to the deceased, and shall allege that the deceased was possessed thereof or entitled thereto, either wholly or partially, as a trustee, it shall be lawful for the person or persons, liable to pay or deliver such debt or debts or other effects, to require such affidavit or affirmation of the fact as hereinafter is mentioned, if the fact shall not otherwise satisfactorily appear; and thereupon to pay, deliver or make over the debt or debts, or other effects in question, to such executors or administrators, or as they shall direct, without regard to the amount of the stamp duty on the probate of the will of the deceased, or the letters of administration of his or her effects. And where the executors or administrators of any person deceased shall have occasion to assign or transfer any debt or debts due to the deceased, or any chattels real, or other personal effects, whereof or whereto the deceased was possessed or entitled, and shall allege that the same respectively was or were due to or vested in the deceased, either wholly or partially, as a trustee, it shall be lawful for the person or persons, to whom or for whose use such debt or debts, chattels real or other personal effects shall be proposed to be assigned or transferred, to require such affidavit or affirmation of the fact as hereinafter is mentioned, if the fact shall not otherwise satisfactorily appear; and thereupon to accept the proposed assignment or transfer, without regard to the amount of the stamp duty on the probate of the will of the deceased or the letters of administration of his or her effects (x).

(x) 48 Geo. 3, c. 149, s. 36.

That upon any such requisition as aforesaid, the executor or executors, administrator or administrators, of the deceased, or some other person or persons, to whom the facts shall be known, shall make a special affidavit or affirmation of the facts and circumstances of the case, stating the property in question, and that the deceased had not any beneficial interest whatever in the same, or no other beneficial interest therein than shall be particularly mentioned and set forth (as the case may be), but was possessed thereof or entitled thereto, either wholly or in part (as the case may be) in trust for some other person or persons, whose name or names, or other sufficient description, shall be specified in such affidavit or affirmation, or for such purposes as shall be specified therein ; and that the beneficial interest of the deceased, if any, in the property in question, doth not exceed a certain value to be therein also specified, according to the best estimate that can be made thereof, if reversionary or contingent, and that the amount or value of the estate, for which the stamp duty was paid on the probate of the will of the deceased, or on the letters of administration of his or her effects, is sufficient to include and cover such beneficial interest of the deceased, as well as the rest of the personal estate, whereof or whereto the deceased was beneficially possessed or entitled, and for which such probate or letters of administration shall have been granted, as far as the same have come to the knowledge of such executor or executors, administrator or administrators ; and where the affidavit or affirmation of the facts and circumstances of the trusts shall be made by any other person than the executor or executors, administrator or administrators of the deceased, such executor or executors, administrator or administrators, shall

Particulars
to be stated
in the aff-
davit.

Penalty for
false oath.

Directions
concerning
affidavits by
executors,
&c. residing
out of Eng-
land relating
to trust prop-
erty.

make affidavit or affirmation, that the same are true to the best of his, her or their knowledge, and that the property in question is intended to be applied and disposed of accordingly; which affidavits or affirmations shall be sworn or made before a Master in Chancery, ordinary or extraordinary (y), (who is thereby authorized to take the same, and administer the proper oath or affirmation for that purpose) and shall be delivered to the party or parties requiring the same, and shall be sufficient to indemnify and protect the party or parties acting upon the faith thereof; and if any person or persons, making any such affidavit or affirmation as aforesaid, shall knowingly and wilfully make a false oath or affirmation, of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties, as by any law then in force, persons convicted of wilful and corrupt perjury are subject and liable to (z).

In regard to probate of wills and letters of administration, that where any part of the personal estate which the deceased was possessed of or entitled to shall be alleged to have been trust property if the person or persons who shall be required to make any affidavit or affirmation relating thereto, conformably to the provision of 48 Geo. 3, c. 149, shall reside out of England, such affidavit or affirmation shall and may be made before any person duly commissioned to take affidavits by the Court of Sessions or Court of Exchequer in Scotland, or before one of his Majesty's justices of the peace in Scotland, or before a Master in Chancery, ordinary

(y) Now commissioners to administer oaths in Chancery in England, 16 & 17 Vict. c. 78, ss. 1, 2, 5.

(z) 48 Geo. 3, c. 149, s. 37.

or extraordinary in Ireland, or before any judge or civil magistrate of any other country or place where the party or parties shall happen to reside, and every such affidavit or affirmation shall be as effectual as if the same had been made before a Master in Chancery in England pursuant to the directions of the said last-mentioned act (x).

4. Provisions in favour of Savings Banks and Friendly Societies.

By stat. 9 Geo. 4, c. 92, (Savings Bank Act), Probate of wills, &c. of depositors in savings banks. s. 40, it is provided, "that in all cases where the whole estate and effects of any deceased depositor, for or in respect of which any probate or letters of administration shall be granted, shall not exceed the value of 50*l.* sterling, no stamp duty shall be chargeable thereon; and by sect. 41, in like cases, no stamp duty shall be chargeable upon the bond required to be given by the administrator, for the due administration of the effects of such deceased depositor, nor upon any affidavit or document leading to or connected with such administration, but that every such bond and affidavit shall be exempted from stamp duty in like manner and under the like regulations as are provided in and by the act with respect to such letter of administration (a). Provided always that in case any depositor in the funds of any such institution shall die leaving a sum of money in the said fund which with the interest thereon shall not exceed in the whole 50*l.*, it shall be lawful for the trustees or managers of such institution, and they are thereby authorized and permitted in case such trustees or managers shall be satisfied that no will was

(x) 55 Geo. 3, c. 134, s. 50.

(a) The same as 1 Geo. 4, c. 83, s. 16, and 5 Geo. 4, c. 62, s. 14, the sum being altered to "not exceeding" instead of "under 50*l.*"

made and left by such deceased depositor, and that no letters of administration will be taken out of the goods and chattels of such depositor to pay the same at any time after the decease of such depositor, according to the rules and regulations of the said institution, and in the event of there being no rules and regulations made in that behalf, then the said trustees or managers are thereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate according to the Statute of Distributions (b).

Where deposits and interest do not exceed 50*l.*, if wills, &c. not proved within a month, money may be paid to widow or to party entitled to effects of deceased.

In case any depositor in any savings bank shall die leaving any sum of money in the said institution belonging to him or her at the time of his or her death, not exceeding in the whole the sum of 50*l.*, exclusive of interest and probate of the will of the deceased depositor, or letters of administration of his or her estate and effects is not produced to the trustees or managers of the institution, or if notice in writing of the existence of a will, and intention to prove the same, or to take out letters of administration, is not given to the said trustees or managers within the period of one month from the death of the said depositor, and in the latter case unless such will is proved, or letters of administration taken out within the period of two months from the death of the said depositor, the said trustees or managers may pay the same to any person or persons who shall appear to such trustees or managers to be the widow or entitled to the effects of such deceased depositor according to the Statute of Dis-

(b) The same as 57 Geo. 3, c. 105, s. 26, and 57 Geo. 3, c. 130, s. 24, the sum being altered from 20*l.* to 50*l.*, and leaving it to the discretion of, instead of being compulsory on, the trustees, &c., to distribute the amount to an intestate depositor.

tribution, or according to the rules of the institution, and the payment of any such sum of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased depositor, or as the lawful representative of such depositor against the funds of such savings bank, or against the trustees and managers thereof, but nevertheless such next of kin or representative shall have remedy for recovery of such money so paid as aforesaid against the person or persons who shall have received the same (c).

When on the death of any member of any certified friendly society, or any certified branch, or of any friendly society already established, any sum, not exceeding 50*l.*, shall become payable, the trustees for the time being of such society may, if they shall be satisfied that no will was made and left by such deceased member, and that no letters of administration will be taken out of the funds, goods and chattels of such depositor, pay the same to the widower or widow of such member, as the case may be, or to the child of such member, if so directed by any rule of such society or branch; and in case there shall be no such direction, then may pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate without taking out letters of administration in England and Ireland (d). The payment to persons appearing to trustees to be entitled to effects of deceased members is made valid, but their next of kin or representatives are to have remedy against the receivers (e).

Payment of sums not exceeding 50*l.* to intestate members of friendly societies.

(c) 7 & 8 Vict. c. 83, s. 10.

(d) 13 & 14 Vict. c. 115, s. 40; continued by 17 & 18 Vict. c. 101. See 15 & 16 Vict. c. 31, as to provident societies.

(e) 13 & 14 Vict. c. 115, s. 41.

SECTION III.—*Of rectifying the Stamps on Probates and Letters of Administration where too high or too little Duty shall have been paid in the first instance.*

Provision for
the case of
too high a
stamp duty
being paid on
probates, &c.

Where any person on applying for a probate or letters of administration shall have estimated the estate and effects of the deceased to be of greater value than the same shall afterwards prove to be, and shall in consequence have paid too high a stamp duty thereon, if such person shall produce the probate or letters of administration to the Commissioners of Inland Revenue within six calendar months after the true value of the estate and effects shall have been ascertained, and it shall be discovered that too high a duty was first paid on the probate or letters of administration, and shall deliver to them a particular inventory and account, and valuation of the estate and effects of the deceased, verified by an affidavit, or solemn affirmation in the case of Quakers^(f); and if it should thereupon satisfactorily appear to the said commissioners that a greater stamp duty was paid on the probate or letters of administration than the law required, it shall be lawful for the said commissioners to cancel and expunge the stamp on the probate or letters of administration, and to substitute another stamp for denoting the duty which ought to have been paid thereon, and to make an allowance for the difference between them, as in the cases of spoiled stamps, or, if the difference be considerable, to repay the same in money, at the discretion of the said commissioners^(g).

(f) See the regulations and form of the affidavit, *post*, pp. 52—54.

(g) 55 Geo. 3, c. 184, s. 40. See 12 & 13 Vict. c. 1.

That from and after the passing of this act, where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of less value than the same shall have afterwards proved to be, and shall in consequence have paid too little stamp duty thereon, it shall be lawful for the said commissioners, on delivery to them of an affidavit or solemn affirmation of the value of the estate and effects of the deceased, to cause the probate or letters of administration to be duly stamped on payment of the full duty which ought to have been originally paid thereon in respect of such value, and of the further sum or penalty payable by law for stamping deeds after the execution thereof, without any deduction or allowance of the stamp duty originally paid on such probate or letters of administration: provided always, that if the application shall be made within six calendar months after the true value of the estate and effects shall be ascertained, and it shall be discovered that too little duty was at first paid on the probate or letters of administration, and if it shall appear by affidavit or solemn affirmation to the satisfaction of the said commissioners that such duty was paid in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, and without any intention of fraud, or to delay the payment of the full and proper duty, then it shall be lawful for the said commissioners to remit the above-mentioned penalty, and to cause the probate or letters of administration to be duly stamped, on payment only of the sum which shall be wanting to

Provision for
the case of
too little
stamp duty
being paid on
probates, &c.

make up the duty which ought to have been at first paid thereon (*h*).

(*h*) 55 Geo. 3, c. 184, s. 41. The following regulations are prescribed by the Commissioners of Inland Revenue under the provisions of the 40 and 41 sects. of 55 Geo. 3, c. 184 :—

1. Application must be made, in the first instance, by the executor or administrator, in person or by his agent, in the legacy duty department; *and within six calendar months after the true value of the effects shall have been ascertained, and it shall be discovered that too much or too little duty has been paid*; and an affidavit *by the executor or administrator, executors or administrators*, stating the circumstances of the case in the form subjoined, must be delivered with the probate or letters of administration.

2. The affidavit must be made before a Master in Chancery, or a commissioner to administer oaths in Chancery in England, and upon a 2s. 6d. stamp, unless the executors or administrators shall attend in person at the Legacy Duty Office, in which case the affidavit may be sworn there, and will not require a stamp, *but must be brought ready written for examination*.

3. In all cases of a return of duty being applied for, there must be subjoined to the affidavit a correct inventory and account of the estate and effects of the deceased, which must be subscribed by the person or persons making the affidavit, and all appraisements of the deceased's effects must be duly stamped.

4. In cases of letters of administration, on which too little duty shall have been paid at first, there must be delivered with the affidavit, a certificate from the proper officer of the Ecclesiastical Court, where the letters of administration were granted, that the administrator hath given further security for the due administration of the personal estate and effects of the deceased, in consequence of the same having been since discovered to be of greater value than was first sworn to, pursuant to the above act, sect. 42. *But this is the only case in which it will be requisite to make any application to the Ecclesiastical Court*.

5. It is indispensable that the application be made personally by the executor, administrator, or his agent, at the Legacy Duty Office, and if the affidavit, probate, or other documents be transmitted by post or left under cover at this office, the application cannot be noticed.

6. If the application shall be made by an *agent* for the executors or administrators, he must write his name and place of residence at the foot of the affidavit.

7. The probate duty clerk will compare the affidavit with

Provided always, that in cases of letters of administration on which too little stamp duty shall

Administrator to give the proper security before administration is duly stamped.

the probate or letters of administration, and see that it contains all the particulars required by the forms subjoined, and especially that the court which granted the probate or letters of administration is correctly stated and described.

8. If the affidavit is found sufficient, the probate duty clerk will fill up the proper warrant, and sign his name in the margin of the warrant and of the affidavit, and send the same, together with the probate and letters of administration, to the board, for a commissioner's fiat for altering the stamps: the probate duty clerk is also to write and sign a note in the margin, or on the back of the probate or letters of administration, *that the effects have been since sworn under the sum of £* adding, "Inland Revenue Office," after his name.

9. The board will retain the affidavit and the inventory account and valuation and certificate above-mentioned to be filed; and will deliver the warrant, with the probate or letters of administration, to the person making the application. *The warrant will contain directions for the further proceedings.*

And no fees or gratuities are to be taken by any officer or clerk at the Inland Revenue Office, for anything done by him in pursuance of the foregoing regulations, but the whole business to be done there is to be free of expense.

1. Affidavit for obtaining a return of duty on probates and letters of administration, on which *too much* duty shall have been paid on taking out the same.

To be filled in from the Circular Letter issued by the Legacy Duty Department.

Reg ^r .	No.	18	Folio.
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In the executorship [*or administration*] of deceased.

A. B. of &c. [*or* A. B. of &c. and C. D. of &c.] maketh oath and saith, [*or* make oath and say] that probate of the last will and testament [*or* letters of administration of the goods, chattels and credits, with the will annexed, *if so,*] of E. F. late of &c. deceased, who died on the day of one thousand eight hundred and , was [*or were*] granted to this deponent [*or* these deponents] by the Court of the Archbishop [*or* Bishop, *or* Archdeacon] of [*observe here to state the court correctly*] on the day of one thousand eight hundred and , and that the estate and effects of the said deceased, for or in respect of which the said probate was [*or* letters of administration were] granted, were

Of the Stamp Duties on Probates, &c.

have been paid at first, the said Commissioners of Inland Revenue shall not cause the same to be duly

then sworn to be under the value of pounds, and a stamp duty of pounds was accordingly paid on the said probate [*or letters of administration*]. And this deponent further saith [*or these deponents further say*] that since obtaining the said probate [*or letters of administration*] and within six calendar months now last past, the true value of the estate and effects hath been ascertained, and it hath been discovered that too high a stamp duty was paid thereon: for that

[*Here state the facts and circumstances of the case, to show how it happened that too much stamp duty was paid, and at what particular time, and through what circumstances the lesser value was discovered.*]

And this deponent further saith, [*or these deponents further say*] that the schedule hereunto subjoined and subscribed by him [*or her, or them,*] doth contain a true and perfect inventory, account and valuation of the personal estate and effects whereof the said deceased was possessed, and for which the said probate was [*or letters of administration were*] granted by the court aforesaid, exclusive of what the deceased may have been possessed of, or entitled to, as a trustee for any other person or persons, and not beneficially, and without deducting any thing on account of the debts due and owing from the deceased; and particularly that the said inventory includes all the leasehold estates for terms of years, absolute or determinable on a life or lives whereof the said deceased was possessed; and that such personal estate and effects did not at the time of the granting of the said probate [*or letters of administration*] amount in value to more than the sum of which is set forth in the said schedule as the amount or value thereof, to the best of the knowledge, information, and belief of this deponent [*or these deponents*]. And therefore this deponent saith [*or these deponents say*] that he hath [*or they have*] been informed and believes [*or believe*] that a stamp duty of pounds, and no more, ought to have been paid on the said probate [*or letters of administration*].—All which is submitted to the Commissioners of Inland Revenue, praying that the sum of pounds, being the amount of duty overpaid, may be returned to this deponent [*or these deponents—or to G. H. the agent of this deponent or these deponents, whose receipt shall be a sufficient discharge for the same;*] and that the stamp or stamps on the said probate [*or letters of administration*] may be rectified as the law directs.

The above affidavit to be made by all the executors or administrators.

stamped in the manner aforesaid, until the administrator shall have given such security to the Eccle-

2. Affidavit to be made in case of *too little* duty having been paid on probates and letters of administration on taking out the same.

To be filled in from the
Circular Letter issued
by the Legacy Duty
Department.

Reg ^r .	No.	18	Folio.
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In the executorship [*or administration*] of deceased.

A. B. of &c. [*or A. B. of &c. and C. D. of &c.*] maketh oath and saith, [*or make oath and say*] that probate of the last will and testament [*or letters of administration of the goods, chattels and credits, with the will annexed, if so,*] of E. F. late of &c. deceased, who died on the day of one thousand eight hundred and , was [*or were*] granted to this deponent [*or these deponents*] by the Court of the Archbishop [*or Bishop, or Archdeacon*] of [*observe here to state the court correctly*] on the day of one thousand eight hundred and , and that the estate and effects of the said deceased, for or in respect of which the said probate was [*or letters of administration were*] granted, were then sworn to be under the value of pounds, and a stamp duty of pounds was accordingly paid on the said probate [*or letters of administration*]. And this deponent further saith [*or these deponents further say*] that since obtaining the said probate [*or letters of administration*] and *within six calendar months now last past*, the true value of the estate and effects have been ascertained, and it hath been discovered that too little stamp duty was paid thereon; for that

[*Here state the facts and circumstances of the case, to show how it happened that too little stamp duty was paid, and at what particular time, and through what circumstances the higher value was discovered.*]

And this deponent further saith [*or these deponents further say*] that the personal estate and effects whereof the said deceased was possessed, and for which the said probate was [*or letters of administration were*] granted by the court aforesaid, (exclusive of what the deceased was possessed of, or entitled to, as a trustee for any other person or persons, and not beneficially, but including the leasehold estates for years of the deceased whether absolute or determinable on a life or lives, and without deducting any thing on account of the debts due and owing from the deceased,) though exceeding the value of pounds, are under the value of pounds, according to the best of the knowledge, informa-

siastical Court or Ordinary by whom the letters of administration shall have been granted as ought by law to have been given on the granting thereof, in case the full value of the estate and effects of the deceased had been then ascertained, and also that the said commissioners shall yearly or oftener transmit an account of the probates and letters of administration upon which the stamps shall have been rectified in pursuance of this Act to the several Ecclesiastical Courts by which the same shall have

tion, and belief of this deponent [*or these deponents*], and that too little duty was paid at first on the said probate [*or letters of administration*] entirely through ignorance, mistake, or misapprehension, and without any intention of fraud, or to delay the payment of the full and proper duty, which this deponent hath [*or these deponents have*] been informed and believes [*or believe*] amounts to the sum of pounds. All which is submitted to the Commissioners of Inland Revenue, praying that the said probate [*or letters of administration*] may now be duly stamped, on payment of the sum of , being the sum wanting to make up the duty which ought to have been at first paid thereon.

The above affidavit to be made by all the executors or administrators.

When the affidavit is intended to be sworn at the Legacy Duty Office, the following is the form of the jurat :—

Sworn at the Legacy Duty Office,
Somerset House, in the County of
Middlesex, this day of
18 , before me

[*Or*].—If more than one deponent, the names of all should be inserted in the jurat as follows, viz. :—

Severally sworn by the said

at the Legacy Duty Office, Somerset
House, in the County of Middlesex,
this day of 18 , be-
fore me

been granted, together with the value of the estate and effects of the deceased upon which such rectification shall have proceeded (i).

That where too little duty shall have been paid on any probate or letters of administration, in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, if any executor or administrator acting under such probate or letters of administration shall not, within six calendar months after the passing of this act, or after the discovery of the mistake or misapprehension, or of any estate and effects not known at the time to have belonged to the deceased, apply to the Commissioners of Inland Revenue, and pay what shall be wanting to make up the duty which ought to have been paid at first on such probate or letters of administration, he or she shall forfeit the sum of one hundred pounds, and also a further sum at and after the rate of ten pounds per centum on the amount of the sum wanting to make up the proper duty (k).

Penalty on executors, &c. not paying the full duty on probates, &c. in a given time after discovery of too little paid at first, 100*l.*, and 10 per cent. on the duty wanting.

If it appears in a suit in the Court of Chancery that the probate or letters of administration bear a stamp applicable to a less sum than that which is sought to be recovered in the cause, no decree can be obtained until the defect has been rectified, and the party can show that he represents the estate to an amount sufficient to cover his claim (l). Where a party claimed a fund in court as his father's administrator, but the letters of administration were

The effect of improper stamps on probate, &c. in suits.

(i) 55 Geo. 3, c. 184, s. 42. See 12 & 13 Vict. c. 1.

(k) 55 Geo. 3, c. 184, s. 43.

(l) *Jones v. Howells*, 2 Hare, 342; *Clough v. Dixon*, 10 Sim. 564.

not stamped to a sufficient amount, the court refused to grant him a stop order until he had procured the letters to be sufficiently stamped (*m*). A plaintiff sued to recover a large unliquidated sum due to her testatrix, but the stamp on the probate did not cover the amount claimed; it was held that the plaintiff could not obtain a decree even for accounts and inquiries, until the probate had been properly stamped. The cause stood over, and the commissioners stamped the probate and gave credit for the duty (*n*).

Administra-
tion must be
taken out for
the full
amount, as
no allowance
is made by
the act for
loss by debts.

If an administrator shows that he sues for a greater value than is covered by the *ad valorem* stamp of his letters of administration, he shows his administration to be void and cannot recover, although he sues for a doubtful claim. He must prove his administration, for that constitutes his title to recover, and it will not suffice to sue out letters of administration on a larger stamp after he has obtained judgment (*o*). Nor will it make any difference that he is suing for a doubtful claim (*p*). But the original defect of stamp will not render the grant void, and therefore a commission of bankrupt may be supported on a debt due to the petitioning creditor in the character of executor, although he has not obtained a probate on a sufficient stamp at the time when the commission issued, if he afterwards obtains a valid probate, for affixing the additional stamp perfects the title by relation (*q*). In *assumpsit* by an administrator upon promises laid to the intestate, with a profert of the letters of administra-

(*m*) *Christian v. Devereux*, 12 Sim. 204.

(*n*) *Howard v. Prime*, 10 Beav. 312; 55 Geo. 3, c. 184, s. 45.

(*o*) *Hunt v. Stevens*, 3 Taunt. 113.

(*p*) *Ibid.* See *ante*, p. 22.

(*q*) *Rogers v. James*, 7 Taunt. 147; 2 Marsh. 425.

tion and *non assumpsit* pleaded, the defendant can not, upon the production of the letters of administration object that they are not properly stamped, for the plea admits that the plaintiff is administrator (*r*).

By the Common Law Procedure Act, 1854, Provisions for stamping documents at the trial. upon the production of any document as evidence at the trial of any cause, it shall be the duty of the officer of the court, whose duty it is to read such document, to call the attention of the judge to any omission or insufficiency of the stamp, and the document if unstamped or not sufficiently stamped, shall not be received in evidence until the whole or (as the case may be) the deficiency of the stamp duty and the penalty required by statute, together with the additional penalty of one pound, shall have been paid (*s*).

Such officer of the court shall, upon payment to him of the whole or (as the case may be) of the deficiency of the stamp duty payable upon or in respect of such document, and of the penalty required by statute, and of the additional penalty of one pound, give a receipt for the amount of the duty or deficiency which the judge shall determine to be payable, and also of the penalty, and thereupon such document shall be admissible in evidence, saving all just exceptions on other grounds (*t*). It does not appear that the last provision can be available in the case of probates and letters of administration.

Every instrument liable to stamp duty shall be admitted in evidence in any criminal proceeding,

(*r*) *Thynne v. Protheroe*, 2 Maule & S. 553.

(*s*) 17 & 18 Vict. c. 125, s. 23.

(*t*) *Ib.* s. 29.

although it may not have the stamp required by law impressed thereon or affixed thereto (t).

Ecclesiastical Courts not to take surrenders of probates, &c. on the ground only of wrong duty paid thereon.

That from and after the expiration of three calendar months from the passing of this act it shall not be lawful for any Ecclesiastical Court or person to call in and revoke or to accept the surrender of any probate or letters of administration, on the ground only of too high or too low a stamp duty having been paid thereon, as heretofore hath been practised; and if any Ecclesiastical Court or person shall so do, the Commissioners of Inland Revenue shall not make any allowance whatever for the stamp duty on the probate or letters of administration which shall be so annulled (u).

Commissioners of Inland Revenue may give credit for the duty on probates and letters of administration in certain cases.

And whereas it has happened in the case of letters of administration on which the proper stamp duty hath not been paid at first, that certain debts, chattels real or other effects due or belonging to the deceased have been found to be of such great value that the administrator hath not been possessed of money sufficient, either of his own or of the deceased, to pay the requisite stamp duty, in order to render such letters of administration available for the recovery thereof by law; and whereas the like may occur again, and it may also happen that executors or persons entitled to take out letters of administration may, before obtaining probate of the will or letters of administration of the estate and effects of the deceased, find some considerable part or parts of the estate and effects of the deceased so circumstanced as not to be immediately got possession of, and may not have money sufficient, either of their own or of the deceased, to pay the stamp duty on

(t) 17 & 18 Vict. c. 83, s. 27.

(u) 55 Geo. 3, c. 184, s. 44. See 12 & 13 Vict. c. 1.

the probate or letters of administration which it shall be necessary to obtain; be it therefore further enacted, that from and after the passing of this act it shall be lawful for the said commissioners, on satisfactory proof of the facts by affidavit or solemn affirmation in any such case as aforesaid which may appear to them to require relief, to cause the probate or letters of administration to be duly stamped for denoting the duty payable or which ought originally to have been paid thereon, and to give credit for the duty, either upon payment of the above-mentioned penalty, or without, in cases of probates or letters of administration already obtained, and upon which too little duty shall have been paid, and either with or without allowance of the stamp duty already paid thereon, as the case may require, under the provisions of this act; provided in all such cases of credit that security be first given by the executors or administrators, together with two or more sufficient sureties to be approved of by the said commissioners, by a bond to his Majesty, his heirs or successors, in double the amount of the duty, for the full and due payment of the sum for which credit shall be given, within six calendar months, or any less period, and of the interest for the same at the rate of ten pounds per centum per annum from the expiration of such period until payment thereof, in case of any default of payment at the time appointed; and such probate or letters of administration, being duly stamped in the manner aforesaid, shall be as valid and available as if the proper duty had been at first paid thereon, and the same had been stamped accordingly (x).

(x) 55 Geo. 3, c. 184, s. 45. See 12 & 13 Vict. c. 1.

Commissioners may extend the credit, if necessary.

Provided always, that if at the expiration of the time to be allowed for the payment of duty on such probate or letters of administration, it shall appear to the satisfaction of the said commissioners that the executor or administrator to whom such credit shall be given as aforesaid shall not have recovered effects of the deceased to an amount sufficient for the payment of the duty, it shall be lawful for the said commissioners to give such further time for the payment thereof, and upon such terms and conditions, as they shall think expedient (*y*).

Probate or letters of administration stamped on credit to be deposited with the commissioners.

Provided also, that the probate or letters of administration so to be stamped on credit as aforesaid shall be deposited with the said Commissioners of Inland Revenue, and shall not be delivered up to the executor or administrator until payment of the duty, together with such interest as aforesaid, if any shall become due; but the same shall nevertheless be produced in evidence by some officer of the said commissioners at the expense of the executor or administrator, as occasion shall require (*z*).

Duty for which credit shall be given to be a debt to the crown.

That the duty for which credit shall be given as aforesaid shall be a debt to his Majesty, his heirs or successors, from the personal estate of the deceased, and shall be paid in preference to and before any other debt whatsoever due from the same estate; and if any executor or administrator of the estate of the deceased shall pay any other debt in preference thereto, he or she shall not only be charged with and be liable to pay the duty out of his or her own estate, but shall also forfeit the sum of five hundred pounds (*a*).

(*y*) 55 Geo. 3, c. 184, s. 46.

(*z*) *Ib.* s. 47.

(*a*) *Ib.* s. 48.

That if, before payment of the duty for which credit shall be given in any such case as aforesaid, it shall become necessary to take out letters of administration *de bonis non* of the deceased, it shall also be lawful for the said commissioners to cause such letters of administration *de bonis non* to be duly stamped with the particular stamp provided to be used on letters of administration of that kind for denoting the payment of the duty in respect of the effects of the deceased on some prior probate or letters of administration of the same effects, in such and the same manner as if the duty had been actually paid, upon having the letters of administration *de bonis non* deposited with the said commissioners, and upon having such further security for the payment of the duty as they shall think expedient; and such letters of administration shall be as valid and available as if the duty for which credit shall be given had been paid (b).

Provision for the case of letters of administration *de bonis non* taken out before payment of the duty for which credit shall be given.

It was contended that the 49th sect. of 55 Geo. 3, c. 184, only authorized the commissioners of stamps to stamp letters of administration *de bonis non* upon credit where the original letters had been also stamped upon credit under the 45th section, but the court held that the 49th sect. applies both to cases where the duty has been paid on the original letters of administration and to those where it had not been so paid (c).

An exemplification of letters of administration *de bonis non*, reciting the former grant of administration, requires to be stamped only as an exemplification of a single proceeding under stat. 55

(b) 55 Geo. 3, c. 184, s. 49.

(c) *Doe d. Hanley v. Wood*, 2 B. & Ald. 724.

Geo. 3, c. 184, Schedule, Part ii., tit. ii., Proceedings in the Ecclesiastical Courts (*d*).

Commissioners of Inland Revenue may cancel useless probates of wills and letters of administration and allow such stamps.

By stat. 39 & 40 Geo. 3, c. 72, s. 16, where due proof on oath is made to the Commissioners of Inland Revenue (which oath one of such commissioners may administer) that any will has, through inadvertence been proved, or that any letters of administration have been taken out on the same property in more than one Ecclesiastical or Prerogative Court, or more than once in any such Ecclesiastical Court, and by reason thereof more than one stamp duty has been paid, such commissioners may on delivery to them of the useless probate or letters to be cancelled, and on production of the valid probate or letters granted on any such will or property cancel the useless probate, &c., and stamp any vellum, &c. with stamps of the like denomination and value as those cancelled, without taking any money for the same.

To prevent the double payment of duties, the stamp office shall provide a stamp for marking probates of wills or letters of administration relating to any estate in respect whereof any probates, &c. shall have been before taken out and the duties then payable discharged.

By stat. 41 Geo. 3, c. 86, s. 3, after reciting that it is expedient that the duties payable in respect of probates or letters of administration should not be paid more than once on the same estate, it is enacted that it should be lawful for the said commissioners, and they are hereby authorized and required, to provide a stamp or mark distinguishable from all other stamps or marks used in relation to any stamp duties for the purpose of stamping or marking any piece of vellum, parchment or paper whereon any probate of any will or letters of administration shall be engrossed, printed or written, in relation to any estate in respect whereof any probate or letters of administration shall have been before taken out,

(*d*) *Doe d. Bassett v. Meed*, 7 Ad. & E. 240.

and the full amount of the duties payable thereon by any act or acts of parliament then in force, according to the full value of such estate, shall have been duly paid and discharged; and in every case where any probate or probates, or letters of administration, shall have been taken out duly stamped according to the full value of the estate in respect whereof the same shall have been granted, then and in case any further or other probate or letters of administration as aforesaid, which shall be at any time thereafter applied for or in respect of such estate, shall and may be issued and granted upon any piece of vellum, parchment, or paper, stamped or marked with the stamp or mark provided by the said commissioners by virtue of this act, for such other probates or letters of administration as aforesaid, and every such other probate or letters of administration which shall be duly stamped or marked with such stamp or mark as last aforesaid, shall be as available in the law and of the like force and effect in all respects whatever, as if the vellum, parchment or paper whereon the same shall be engrossed, printed or written, had been duly stamped with the stamp or mark denoting the full amount of the duties payable in respect of the probate or letters of administration taken out on the full value of such estate, anything in any act or acts or this act before contained to the contrary thereof in anywise notwithstanding.

All affidavits and solemn affirmations in the case of Quakers, required by this or any former or future act of parliament, or which shall be required by the Commissioners of Inland Revenue, to be made for the satisfaction of the said commissioners, of and concerning any facts or circumstances upon

Affidavits relating to stamp duties, if no express provision, to be made before commissioners, &c.

which they are to execute the powers vested in them by this or any other act, or for the verification of any accounts of or concerning the duties under their management, or for any other purpose relating to such duties, shall, in all cases not otherwise expressly provided for, be made before the said commissioners or any one or more of them, or before a Master in Chancery, or a commissioner to administer oaths in Chancery in England, or before any person duly commissioned to take affidavits by the Court of Session or Court of Exchequer in Scotland, or before one of his Majesty's justices of the peace in Scotland (e).

Penalty for
perjury.

All and every person and persons before whom any affidavit or solemn affirmation is or shall be required or directed to be made by this or any former or future act of parliament relating to any stamp duties, shall be and they are hereby authorized to take the same, and administer the proper oath or affirmation for that purpose; and if any person making any such affidavit or affirmation shall knowingly and wilfully make a false oath or affirmation of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to (f).

Stamp on
probate
evidence of
assets.

The amount of the probate stamp is admissible in evidence on issue joined upon a plea of *plene administravit*. And the probate stamp has been

(e) 55 Geo. 3, c. 184, s. 52; 12 & 13 Vict. c. 1; 16 & 17 Vict. c. 78.

(f) 55 Geo. 3, c. 184, s. 53. See 36 Geo. 3, c. 52, s. 38.

held to be *primâ facie* evidence that the executor had assets to the amount covered by the stamp (g). These cases have, however, been questioned, if not overruled. In an action of debt on bond against executors, the principal question was, whether an inventory of goods, delivered by the parties at the time of obtaining probate, was evidence of assets, and the court held that it was not. In allusion to the probate stamp, it was observed by *Littledale* and *Parke*, JJ., that it was less conclusive, as the Stamp Act required the whole value of the estate and effects to be sworn to, without deducting anything on account of debts due from the deceased, and for the purposes of the stamp duty, the executor must include in the sum sworn to, debts due to the testator, though not recovered (h). And in the subsequent case, of *Mann v. Lang* (i), *Littledale*, J., said, that he could not say that the stamp on the probate was not admissible, but it was not *primâ facie* evidence of the amount of the assets. In the same case, Lord *Denman*, C. J., expressed his opinion, that if there be evidence of a long acquiescence by the executor, without redemanding any of the duty, it is *primâ facie* evidence of such amount, though it is not of itself evidence of such amount. But *Patteson*, J., was of opinion that it is not such *primâ facie* evidence, even if a long acquiescence is shown, and thought the above cases of *Curtis v. Hunt* and *Foster v. Blakelock* bad law on this point; and he concurred in what was said upon the latter in *Stearn v. Mills* (k).

(g) *Foster v. Blakelock*, 5 B. & C. 328; 6 D. & R. 46; *Curtis v. Hunt*, 1 Car. & P. 180.

(h) *Stearn v. Mills*, 4 B. & Ad. 657.

(i) 3 Ad. & Ell. 699; 5 Nev. & M. 20.

(k) *Supra*.

SECTION IV.—*Of obtaining a Return of Probate and Administration Duty on the ground of Debts of the Deceased.*

The statute 55 Geo. 3, c. 184, s. 51, contained a provision for obtaining a return of duty on probates, &c. in respect of debts, if claimed within three years, for which the following enactment is now substituted :

A return of duty on probates and letters of administration to be made in respect of debts if claimed in three years.

Where it shall be proved by oath and proper vouchers, to the satisfaction of the Commissioners of Inland Revenue, that an executor or administrator hath paid debts due and owing from the deceased, and payable by law out of his or her personal or moveable estate, to such an amount as, being deducted from the amount or value of the estate and effects of the deceased, for or in respect of which a probate or letters of administration shall have been granted, in England, after the 31st day of August, 1815, or which shall be included in any inventory, duly exhibited and recorded after that day in a Commissary Court in Scotland, shall reduce the same to a sum which, if it had been the whole gross amount or value of such estate or effects, would have occasioned a less stamp duty to be paid on such probate or letters of administration, or inventory, than shall have been actually paid thereon, it shall be lawful for the said commissioners, and they are hereby required to return the difference, provided the same shall be claimed within three years after the date of such probate or letters of administration, or the recording of such inventory as aforesaid; but where, by reason of any proceeding at law or in equity, the debts due from the deceased shall not

have been ascertained and paid, or the effects of the deceased shall not have been recovered and made available, and in consequence thereof the executor or administrator shall be prevented from claiming such return of duty as aforesaid, within the said term of three years, it shall be lawful for the said commissioners to allow such further time for making the claim as may appear to them to be reasonable, under the circumstances of the case⁽¹⁾.

The following REGULATIONS are to be observed for obtaining a Return of Duty on Probates of Wills and Letters of Administration, granted after the 31st of August, 1815, on the ground of Debts paid out of the Effects of the Deceased, pursuant to the Acts of Parliament, 55 Geo. 3, c. 184, s. 51, and 5 & 6 Vict. c. 79, s. 23.

1. Application must be made, in the first instance, by the executor or administrator, IN PERSON OR BY HIS AGENT, at the legacy duty office; and *within three years after the date of the probate, or letters of administration*. But if the executors or administrators shall be prevented from claiming a return of duty within that period, in consequence of the debts not having been ascertained and paid, or the effects of the deceased not having been recovered and made available, by reason of any proceedings at law or in equity, an application must be made, in the first instance, to the Commissioners of Inland Revenue to grant further time.

2. It is necessary to produce an affidavit by the executors or administrators, and a correct inventory and account of the effects of the deceased, accompanied by valuations duly stamped, and likewise a schedule of the debts in respect of which the return of duty is claimed, according to the forms prescribed^(m). The probate or letters of administration must also be produced.

3. Evidence must be given of the validity of the debts, and of their being payable by law out of the deceased's

⁽¹⁾ 5 & 6 Vict. c. 79, s. 23. See 12 & 13 Vict. c. 1.

^(m) See *post*, pp. 71—74.

personal estate; and vouchers (on the proper stamps) of the payment thereof must be exhibited. The proper vouchers in respect of debts on mortgage, bond, covenant, bill or other security, are all the several instruments (duly stamped) relating to such debts, with the proper discharge or release, or other acknowledgment of the payment.

4. The affidavit must be made before a Master in Chancery, or a commissioner to administer oaths in Chancery in England, and upon a 2s. 6d. stamp; unless the executors or administrators shall attend in person at the legacy duty office, in which case the affidavit may be sworn there, and will not require a stamp, but must be brought ready written.

5. The affidavit is to be written on a sheet of *foolscap* paper with a *quarter margin*, and on the third side of the sheet an account is to be given of the deceased's effects, and of the *nature* and amount of the debts *actually paid*, in *the form and manner set forth on the subsequent pages (n)*.

6. If the application shall be made by an *agent* for the executors or administrators, he must write his name and place of residence at the foot of the affidavit.

7. If, when the actual value of the effects of which the deceased died possessed is ascertained, it shall appear that either too much or too little stamp duty has been paid on taking out the same, in consequence of the effects having been estimated by mistake at a greater or less value than they really were, application must be made in the probate duty office, in order to obtain a return of the duty overpaid, or to pay the additional duty, *before* the return of duty on the ground of debts can be granted, as directed by the 55 Geo. 3, c. 184, ss. 40, 41 (o).

8. A return of duty cannot be granted on account of debts, until all the debts shall be paid in respect of which any claim is intended to be made; nor until the effects of the deceased shall be fully got in and converted into money, or the amount and value thereof shall be otherwise *clearly* ascertained. The return of the stamp duty on probates and letters of administration is restricted to the debts actually contracted and due and owing by the deceased at the time of his death, and no return can be granted in respect of debts, the payment of which is exclusively charged upon real estate, or in case of a probate or letters of administration, dated prior to the 31st of August, 1815. When the effects of the deceased shall be situate in different jurisdictions, British or foreign, the dates of the grant of each probate, &c., if more than one, should be set forth in the affidavit, and there should be *sepa-*

(n) *Post*, pp. 74—76.

(o) See *ante*, p. 50—52.

rate schedules of the effects in each jurisdiction, with one schedule of the debts; and the debts will be apportioned rateably upon the effects comprised in the several schedules, and the return of duty will be allowed according to the reduced value in each jurisdiction, after making such apportionment.

9. Upon the claim being established, and all legacy duty then due having been paid, the warrant for the return of probate duty will be delivered.

By order of the Commissioners of Inland Revenue.

N.B. The following is the form of Receipt:—

Received the _____ day of _____ 18— of the Receiver-General of Inland Revenue, the sum of _____ being the amount mentioned in the annexed order.

Signature _____
Address _____

FORM OF AFFIDAVIT.

To be filled in from the Circular Letter issued by the Legacy Duty Department.

Reg.	No.	18	Folio.*
------	-----	----	---------

In the executorship [or administration of] _____ deceased.
A. B. of &c. [or A. B. of &c. and C. D. of &c.] maketh oath and saith [or make oath and say] that probate of the last will and testament [or letters of administration of the goods, chattels and credits, with the will annexed, if so] of E. F. late of &c. deceased, who died on the _____ day of _____ one thousand eight hundred and _____ was [or were] granted to this deponent [or these deponents] by the court of the archbishop [or bishop, or archdeacon of &c.—*observe here to state the court correctly*] on the _____ day of _____ one thousand eight hundred and _____; and that the estate and effects of the said deceased, for or in respect of which the said probate was [or letters of administration were] granted, were then sworn to be under the value of _____ pounds, and a stamp duty of _____ pounds was accordingly paid on the said probate [or letters of administration.] (See Note *A post*, p. 73.) And this deponent further saith [or these deponents further say] that the schedule hereunto annexed and subscribed by him [or her or them] and marked No. 1, doth contain a true and perfect inventory, account, and valuation of the personal estate and effects, whereof the said deceased was possessed, and for which the said probate was [or letters of administration

* This reference must be written on the back also of the affidavit.

were] granted by the court aforesaid, exclusive of what the deceased may have been possessed of, or entitled to as a trustee for any other person or persons, and not beneficially, and particularly that the said inventory includes all the (B) leasehold estates for terms of years, absolute, or determinable on a life or lives, whereof the said deceased died possessed, and that such personal estate and effects being now fully got in, or the amount thereof clearly ascertained, did not at the time the said probate was [or letters of administration were] granted exceed the sum of*] according to the best of the knowledge, information and belief of this deponent [or these deponents]. And that the said deceased did not die possessed of any other personal estate and effects whatever, either in Great Britain or elsewhere, to the best of this deponent's [or these deponents'] knowledge and belief. (C) and (D). And this deponent further saith [or these deponents further say] that he hath [or they have] actually paid debts to the full amount of without reckoning or including any interest accrued or become due upon any debt since the death of the said deceased: and that the said debts are not in any way made chargeable upon or payable out of any real estate distinct from or in exoneration of the personal estate, for and in respect of which the said probate was [or letters of administration were] granted, but that the same were justly due and owing from the deceased at the time of his [or her] decease, and payable by law out of his [or her] personal estate; and that the said debts being deducted from the amount or value of the personal estate and effects, do reduce the same to a sum, which, if it had been the whole gross amount or value of the personal estate and effects of the deceased, would have occasioned a less stamp duty to be paid on the said (E) probate [or letters of administration] than was actually paid thereon, by the sum of as this deponent hath [or these deponents have] been informed and believes [or believe]. All which is submitted to the Commissioners of Inland Revenue, praying that the said sum of may therefore be returned to this deponent [or these deponents] pursuant to the act of parliament in that behalf, and that the same may be paid to of the agent for this deponent [or these deponents,] whose receipt shall be a sufficient discharge for the same.

When the affidavit is intended to be sworn at the legacy duty office, the following is the form of the jurat:—

Sworn at the legacy duty office,
Somerset House, in the county
of Middlesex, this day of
18 , before me

* State the amount of the effects without any deduction on account of the debts.

[Or]—If more than one deponent, the names of all should be inserted in the jurat as follows, viz. :—

Severally sworn by the said	}
at the Legacy Duty Office, Somerset House, in the county of	
Middlesex, this day of	
18 before me	

[Note.]

A If a further duty has been paid by reason of too little duty having been paid by mistake in the first instance, insert the following clause—

And this deponent [*or these deponents*] further saith [*or say*] that since obtaining the said probate [*or letters of administration*] it hath been discovered that the value of the estate and effects of the said deceased, exceeds the sum of pounds, and the same has been sworn to be under the value of pounds, that the additional duty of pounds hath been paid on the said probate [*or letters of administration*] which being added to the duty of pounds, paid at the time of obtaining the said probate [*or letters of administration*] makes the whole duty paid pounds.

Or, if a proportion of the duty has been returned by reason of too much duty having been paid by mistake in the first instance, then insert the following clause—

And this deponent [*or these deponents*] further saith [*or say*] that since obtaining the said probate [*or letters of administration*] it having been discovered that the value of the estate and effects of the said deceased is under the sum of pounds, the same hath been sworn to be under that sum, and a return of duty hath been granted on the said probate [*or letters of administration*] whereby the duty paid in the first instance by this deponent [*or these deponents*] is reduced to the sum of pounds.

B If no leasehold, omit the clause and insert—

And that the said deceased was not possessed of any leasehold estate for terms of years absolute or determinable on a life or lives.

C If the deceased did die possessed of any other property in Great Britain or elsewhere, omit the preceding clause, and insert the following :—

And that the said deceased, at the time of his death, was possessed of personal estate and effects, situate out of the jurisdiction of the aforesaid court of and not included in the aforesaid sum of the value and particulars of which last-mentioned estate and effects,

Of the Stamp Duties on Probates, &c.

is and are set forth in the schedule hereunto annexed, and subscribed by this deponent [*or these deponents*] and marked No. 2. And that the said deceased did not die possessed of any other personal estate and effects whatever, either in Great Britain or elsewhere, to the best of this deponent's knowledge, information and belief.

D If the executor or administrator has retained any debt due to himself, then insert the following clause, and omit the words "And this deponent further saith," and the two lines following to the words "since the death of the said deceased" inclusive—

And this deponent further saith that he is entitled to retain, and hath retained, the sum of being a debt due and owing to him [*or her*] from the deceased at the time of his [*or her*] death;—and that he hath actually paid debts to the full amount of making together the sum of without reckoning or including any interest accrued, or become due upon any debt, since the death of the said deceased.

E If a further duty has been paid, or a proportion of the duty returned, in either case insert here the word "rectified."

If the estate be insolvent, the amount of the funeral and testamentary expenses must be set forth separately, below the schedule of the debts.

SCHEDULE No. 1.

FORM OF ACCOUNT.

SOLVENT ESTATE.

Inventory of deceased's effects. According to the value thereof at the time the probate or administration was granted.

	£	s.	d.
Cash at the bankers	875	13	0
Household goods and furniture } as per valuation	657	10	0
Plate, linen and china ditto...	212	5	6
Wearing apparel and trinkets ... ditto...	58	7	0
Books and pictures..... ditto...	205	9	0
Wine and other liquors ditto...	300	0	0
Stock in trade ditto...	2794	15	0
Leasehold estates ditto...	4321	8	0
Book debts	3154	12	6
1500 <i>l.</i> New 3½ per Cents. at 105.....	1575	0	0
9000 <i>l.</i> 3 per Cent. Consols..... at 80.....	4800	0	0
	<u>£18,955</u>	<u>0</u>	<u>0</u>

Of obtaining a Return of Probate Duty, &c.

75

Schedule of debts due and owing from the deceased at the time of his death, and actually paid.

No.		£	s.	d.
1.	Robert Jennings, wine-merchant...for wine...	170	0	0
2.	John Radcliffe, upholsterer...for furniture...	235	19	0
3.	Richard Rolf, butcher .....for meat.....	43	19	0
4.	Charles Lewisham, tailor .....for clothes.....	105	0	0
5.	Messrs. Barber & Co. for Manchester goods .	1700	10	0
6.	Messrs. Inglis & Co. for calicoes	810	9	0
7.	Messrs. Rumbold, for Irish linens.....	432	10	0
8.	John Richards, for fustians	133	15	0
9.	Ground rents of leasehold estates	137	19	6
10.	Messrs. Vigurs, note of hand for stationery .	278	10	9
		<hr/>		
		4048 12 3		
		<hr/>		
		Balance £14,906 7 9		

Note.—The probate duty on this balance, the same being above 14,000*l.* and under 16,000*l.* is 25*0*l., which being deducted from 310*l.* (the duty paid on the gross value) leaves 60*l.* to be returned
 (Signed) A. B.
 Executor or administrator.
 Should the debts be too numerous for one sheet of foolscap, an additional sheet or sheets may be annexed.

FORM OF ACCOUNT.

INSOLVENT ESTATE.

Inventory of the deceased's effects. According to the value thereof at the time the probate or administration was granted.

	£	s.	d.
Cash at the bankers	875	13	0
Household goods and furniture } as per valuation	...	657	10 0
Plate, linen and china .....ditto...	...	212	5 6
Wearing apparel and trinkets...ditto...	...	58	7 0
Books and pictures.....ditto...	...	205	9 0
Wine and other liquors.....ditto...	...	300	0 0
Stock in trade .....	...	7594	15 0
Leasehold estate, as per valuation .....	...	4321	8 0
Book debts .....	...	4729	12 6
		<hr/>	
		£18,955 0 0	

Schedule of the debts due and owing from the deceased at the time of his death, and actually paid.

No.		£	s.	d.
1.	Robert Jennings, wine merchant...for wine...	170	0	0
2.	John Radcliffe, upholsterer...for furniture...	235	19	0
3.	Richard Rolf, butcher .....for meat.....	43	19	0
4.	Charles Lewisham, tailor .....for clothes.....	105	0	0
5.	Messrs. Barber & Co. for Manchester goods .	2700	10	0
6.	Messrs. Inglis & Co. for calicoes	1810	9	0
7.	Messrs. Rumbold, for Irish linens.....	1432	10	4
8.	John Richards, for fustians and other goods.	2133	15	0
9.	Ground rents of leasehold estates	137	19	6
		<hr/>		
		Carried over £8770 1 10		

Of the Stamp Duties on Probates, &c.

No.		£	s.	d.
	Brought forward.....	8770	1	10
10.	Messrs. Vigurs, note of hand for stationery .	278	2	4
11.	Messrs. Cuthbert, for Manchester goods	5545	2	10
12.	Thomas Rowlandson, on bond for money lent	4000	0	0
13.	James Shrupsole, on bond .....ditto.....	3500	0	0
14.	Richard Boly, on bond .....ditto.....	1500	0	0
15.	John Furvis, note of hand	1000	0	0
	Total debts.....	24,593	7	0
	But the personal estate sufficient to pay only.....	18,445	0	0
	The amount of the funeral and testamentary expenses } (less the duty to be returned) being		510	0 0

(Signed) A. B.

Executor or administrator.

Should the debts be too numerous for one sheet of foolscap, an additional sheet or sheets may be annexed.

SCHEDULE No. 2.

Personal Estate and Effects (if any) not included in
Schedule No. 1.

Cases as to
the return of
probate duty.

Where a testator left personal property in each of the provinces of Canterbury and York, and probates were taken out for the property being in each province respectively, and separate duties paid on each probate, and the executors afterwards paid debts indiscriminately out of the personalty; it was held, that they were not entitled, for the purpose of demanding a return of duty under stat. 5 & 6 Vict. c. 79, s. 23, to add together the amounts in respect of which the two probate duties were paid, deduct from the gross sum the amount of the debts, and then estimate the duty payable on the remainder, and demand back the difference between such duty and the aggregate of the sums paid on the two probates (*n*). It seems that an equitable mode of calculating the sum to be returned, was to apportion the sum paid for debts in the ratio of the estates in each province, and deduct the respective portions

(*n*) *Reg. v. Commissioners of Stamps and Taxes*, 9 Q. B. 637.

of the debts from the values of the respective estates (o).

Where a testator or intestate died possessed of personal estate both in England and India, and indebted to English creditors in respect of debts contracted in England, the amount of assets in India cannot be taken into consideration in estimating the amount of duty to be returned to the executor or administrator under the 5 & 6 Vict. c. 79, s. 23, India being for this purpose to be considered as a foreign country (p). A. died intestate in England, possessed of personal estate in England to the amount of 5,858*l.* 16*s.* 1*d.*, in respect of which a duty of 150*l.* was paid on the letters of administration. His administratrix paid debts due to creditors resident in England, and contracted in England, to the amount of 4,890*l.* 0*s.* 10*d.*, leaving a balance of 968*l.* 15*s.* 3*d.*, on which the duty would only be 30*l.* A., at the time of his death, was also possessed of personal property in the East Indies to the amount of 12,118*l.* 16*s.* 4*d.*, which had been received by his administratrix, by means of letters of administration granted to an agent in India, and there were no other debts due from the intestate; it was held, that the administratrix was entitled to a return of 120*l.* of the duty (q). Lord Denman, C.J., said, that the court would be doing indirectly what the law had carefully abstained from doing, if it made the foreign property contribute to the expense of probate here, and that the probate duty of 120*l.* ought to be returned, because debts had

(o) *Reg. v. Commissioners of Stamps and Taxes*, 9 Q. B. 637.

(p) *Reg. v. Commissioners of Stamps and Taxes, Re Ostell*, 13 Jur. 624; 18 L. J., Q. B., 201.

(q) *Ib.*

been proved which entitled the administratrix to that return under the provisions of the act 5 & 6 Vict. c. 79, and there was no power to charge them on the East India Company (r).

T. being seised in fee of certain lands by indenture, mortgaged them as a security for money lent. The indenture contained a covenant by T. to pay the principal and interest on a certain day. By another indenture, T. covenanted to pay, on a certain day, a further sum of money lent, and that the same lands should be charged with that sum also. T. by will devised his real estate to B., whom he appointed his executor. T. paid the interest on the mortgage debt, but died without having paid the principal. The personal estate of T. was only sufficient to discharge his funeral and testamentary expenses. B. by will bequeathed his real and personal estate to his two sons, whom he appointed his executors, and died without having paid the mortgage debts. The executors of B. exhausted his personalty by paying with it those debts, and on that ground claimed an exemption from legacy duty and a return of probate duty; it was held, that the executors were bound to pay legacy duty, and were not entitled to a return of probate duty, since they were not justified in paying the mortgage debts with the personal estate of B., notwithstanding the 11 Geo. 4 & 1 Will. 4, c. 47, s. 3, rendered them and B. liable, as devisees, to actions on the covenant in the deed, for that statute, when not acted on, makes no difference whatever. It created a liability to be sued, but until something is done

(r) *Reg. v. Commissioners of Stamps and Taxes, Re Ostell*, 18 L. J., Q. B., 201.

under it, it does not change the right of property (s).

If after the probate duty has been properly paid the executors or administrators should obtain a return of a part of it, under the statute, by fraud on the commissioners, a question would arise whether the debt for the duty must be considered as remitted to the same situation in which it originally stood, or whether, as the debt was once actually paid, and the commissioners have allowed themselves to be deluded, the crown has not lost its original rights against the estate (t). Where pending an administration, and before the accounts were taken, the Attorney-General presented a petition for payment out of the assets of a sum which, under false representations, had been returned to the administrator, as over-paid in respect of probate duty, Lord *Langdale* held that the application was at all events premature, and that it was, therefore, unnecessary to decide the point which, however, his Lordship appeared to treat as one of importance and difficulty (u).

(s) *In re Taylor's Estate*, 8 Exch. 384.

(t) 1 Wms. Executors, 524, 4th ed.

(u) *Hicks v. Keat*, 3 Beav. 141.

CHAPTER II.

THE LEGACY DUTY ACTS.

THE legacy duty was first imposed by stat. 20 Geo. 3, c. 28; increased rates of duties and new regulations were introduced by 23 Geo. 3, c. 58; 36 Geo. 3, c. 52; 44 Geo. 3, c. 98; 45 Geo. 3, c. 38; 48 Geo. 3, c. 149. The duties now payable were imposed by 55 Geo. 3, c. 184, the third part of the schedule to which contains the following clause:—

LEGACIES and SUCCESSIONS to Personal or Moveable Estate upon Intestacy.

Duty
Per cent.
£ s. d.

I. Where the testator, testatrix or intestate died before or upon the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument of any person who died before or upon the 5th day of April, 1805, out of his or her personal or moveable estate, and which shall be paid, delivered, retained, satisfied or discharged after the 31st day of August, 1815:

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who died before or upon the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied or discharged after the 31st day of August, 1815:

2 10 0

Where any such legacy or residue, or share of such residue, shall have been given, or have devolved, to or

	<i>Duty Per cent.</i>		
	<i>£</i>	<i>s.</i>	<i>d.</i>
for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased, a duty at and after the rate of two pounds ten shillings per centum on the amount or value thereof.			
Where any such legacy or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased, a duty at and after the rate of four pounds per centum on the amount or value thereof.	4	0	0
Where any such legacy or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased, a duty at and after the rate of five pounds per centum on the amount or value thereof.	5	0	0
And where any such legacy or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of any person in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased, a duty at and after the rate of eight pounds per centum on the amount or value thereof.	8	0	0

II. Where the testator, testatrix or intestate shall have died after the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument of any person who shall have died after the 5th day of April, 1805, either out of his or her personal or moveable estate, or out of or charged upon his or her real or heritable estate or out of any monies to arise by the sale, mortgage or other disposition of his or her real or heritable estate, or any part thereof, and which shall be paid, delivered, retained, satisfied or discharged after the 31st day of August, 1815:

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person, who shall have died after the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue or share of residue shall be

Duty
Per cent.
£ s. d.

- of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied or discharged after the 31st day of August, 1815:
- And also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the monies to arise from the sale, mortgage or other disposition of any real or heritable estate, directed to be sold, mortgaged or otherwise disposed of by any will or testamentary instrument of any person who shall have died after the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies and other charges first made payable thereout, if any), where such residue, or share of residue, shall amount to 20*l.* or upwards, and where the same shall be paid, retained or discharged after the 31st day of August, 1815:
- | | | | |
|----|---|---|--|
| 1 | 0 | 0 | Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a child of the deceased, or any descendant of a child of the deceased, or to or for the benefit of the father or mother, or any lineal ancestor of the deceased, a duty at and after the rate of one pound per centum on the amount or value thereof. |
| 3 | 0 | 0 | Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased, a duty at and after the rate of three pounds per centum on the amount or value thereof. |
| 5 | 0 | 0 | Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased, a duty at and after the rate of five pounds per centum on the amount or value thereof. |
| 6 | 0 | 0 | Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased, a duty at and after the rate of six pounds per centum on the amount or value thereof. |
| 10 | 0 | 0 | And where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of any person in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased, a duty at and after the rate of ten pounds per centum on the amount or value thereof. |

And all gifts of annuities, or by way of annuity, or of any other partial benefit or interest, out of any such estate or effects as aforesaid, shall be deemed legacies within the intent and meaning of this schedule:

And where any legatee shall take two or more distinct legacies or benefits under any will or testamentary instrument, which shall together be of the amount or value of 20*l.* each, shall be charged with duty, though each or either may be separately under that amount or value.

Exemptions:—

Legacies and residues, or shares of residue, of any such estate or effects as aforesaid, given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family (*x*).

And all legacies which were exempted from duty by the act passed in the 39th year of his Majesty's reign, c. 73, for exempting certain specific legacies given to bodies corporate, or other public bodies, from the payment of duty (*y*).

It is provided that all the powers and provisions, clauses, regulations and directions, fines, forfeitures, pains and penalties contained in the former acts relating to the repealed duties shall extend to the duties granted by 55 Geo. 3, c. 184 (*z*).

(*x*) The 36 Geo. 3, c. 52, s. 2, *post*, p. 85, and 45 Geo. 3, c. 28, s. 3, contain a similar exemption.

(*y*) The statute 39 Geo. 3, c. 73, enacts, that no legacy consisting of books, prints, pictures, statues, gems, coins, medals, specimens of natural history or other specific articles which shall be given or bequeathed to or in trust for any body corporate, whether aggregate or sole, or to the society of Serjeants' Inn, or any of the inns of Court or Chancery, or any endowed school, in order to be kept and preserved by such body corporate, society or school, and not for the purposes of sale, shall be liable to any duty imposed on legacies by any law now in force.

No duty is payable under the Succession Duty Act, 1853, by any person in respect of a succession, who, if the same were a legacy bequeathed to him by the predecessor, would be exempted from the payment of duty in respect thereof under the Legacy Duty Acts 16 & 17 Vict. c. 51, s. 18.

(*z*) 55 Geo. 3, c. 184, s. 8, *ante*, p. 21.

No person charged with the duties on legacies and shares of personal estate under the Legacy Duty Acts in respect to any property subject to such duties shall be charged also with the duty granted by the Succession Duty Act, 1853, in respect of the same acquisition of the same property (a).

The regulations respecting the payment of legacy duty, except so far as they have been altered by the Succession Duty Act, 1853, are principally contained in the 36 Geo. 3, c. 52.

36 Geo. 3, c. 52.
Duties imposed by Acts on receipts for legacies or residues of personal estates on which new ones are hereby laid to cease.
New duties.

I. The several duties by the several acts, 20 Geo. 3, c. 28; 23 Geo. 3, c. 58; and 29 Geo. 3, c. 51, imposed on all receipts and discharges for legacies given by any will or other testamentary instrument, and for shares or parts of the residue of personal estate were repealed.

II. It is enacted that, upon every legacy, specific or pecuniary, or of any other description, of the amount or value of twenty pounds or more, given by any will or testamentary instrument of any person (b) who shall die after the passing of this act, out of the personal estate of the person so dying, and also upon the clear residue and upon every part of the clear residue of the personal estate of every person who shall so die, whether testate or in-

(a) 16 & 17 Vict. c. 51, s. 18.

(b) Lord *Cottenham* observed, when the act 36 Geo. 3, c. 52, s. 2, imposing a legacy duty "on every legacy given by any will of any person," speaks of "any will of any person," and of legacies being payable out of the personal estate, it must be considered as speaking of persons and wills and personal estates in this country, that being the limit of the sphere of the enactment. It is clearly not applicable to the East Indies; it is applicable to this country. If there had been no property in this country, it would not be necessary to prove the will here as to the property in India. *Arnold v. Arnold*, 2 My. & Cr. 270. See also *Thompson v. Advocate-General*, 12 Cl. & Fin. 12, 18.

testate, and leave personal estate of the clear value of one hundred pounds or upwards, which shall remain after deducting debts, funeral expenses and other charges, and specific and pecuniary legacies (if any), whether the title to such residue or to any part thereof shall accrue by virtue of any testamentary disposition or upon intestacy, there shall be raised, levied, collected and paid unto and for the use of his majesty, his heirs and successors, the several duties after the rates therein mentioned (c).

Provided always that nothing herein contained shall extend to charge with any duty, any legacy or any residue or part of residue, of any personal estate, which shall be given or shall pass to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family (d).

Duties not to extend to bequests to husbands or wives, or the royal family.

III. The said duties shall be under the care, management and direction of the Commissioners of Inland Revenue for the time being, who, or the major part of them, are empowered to employ the necessary officers under them for that purpose, and to do all things necessary for carrying the act into execution, according to the rules, methods and directions therein contained (e).

Duties to be under the management of the Commissioners of Inland Revenue.

IV. The said commissioners to appoint proper persons in the several counties, &c. in Great Britain, as occasion shall require, to collect and receive the duties and to keep proper accounts thereof, to be transmitted to the head office of the said commis-

Commissioners to appoint receivers of the duties, and to keep accounts, showing the personal estates in respect of which the duties have been paid.

(c) The rates of duties which have been altered from time to time are now prescribed by 55 Geo. 3, c. 184. See *ante*, p. 80—82.

(d) This proviso is repeated in 45 Geo. 3, c. 28, s. 3, and see 55 Geo. 3, c. 184, Sched., Part III., *ante*, p. 83.

(e) The legacy duties are now placed under the care and management of the Commissioners of Inland Revenue, 12 & 13 Vict. c. 1. See 16 & 17 Vict. c. 51, s. 9, *post*, n.

sioners ; and upon payment of any such duty at the head office to cause the same to be duly entered in their books, and to be set down therein to the account of the personal estate in respect whereof the said duty shall be paid, and to make like entries in their books, upon transmission of the proper accounts from the several officers in the different counties, &c., to whom they shall from time to time give proper orders for such purpose. The accounts of such payments to be kept, with proper references, in alphabetical order, according to the surname of the testator, testatrix or intestate, so that it may at all times appear upon the books of the said commissioners what payments have been made in respect of the personal estate of any testator, testatrix or intestate.

V. The commissioners may provide printed receipts, which may be used, or others of the like forms.

Duties to be paid by executors or administrators on retaining or paying legacies.

VI. That the duties hereby imposed shall, in all cases in which it is not hereby otherwise provided, be accounted for, answered and paid by the person or persons having or taking the burthen of the execution of the will or other testamentary instrument or the administration of the personal estate of any person deceased, upon retainer for his, her or their own benefit, or for the benefit of any other person or persons, of any legacy, or any part of any legacy, or of the residue of any personal estate, or any part of such residue, which he, she or they shall be entitled so to retain either in his, her or their own right or in the right or for the benefit of any other person or persons, and also upon delivery, payment or other satisfaction or discharge whatsoever of any legacy, or any part of any legacy, or of the residue

of any personal estate, or any part of such residue, to which any other person or persons shall be entitled; and in case any person or persons having or taking the burthen of such execution or administration as aforesaid shall retain, for his, her or their own benefit, or for the benefit of any other person or persons, any legacy, or any part of any legacy, or the residue of any personal estate, or any part of such residue, which such person or persons shall be entitled so to retain, either in his, her or their own right, or in the right or for the benefit of any other person or persons, and upon which any duty shall be chargeable by virtue of this act, not having first paid such duty, or shall deliver, pay or otherwise howsoever satisfy or discharge any legacy, or any part of any legacy, or the residue of any personal estate, or any part thereof, to which any other person or persons shall be entitled, and upon which any duty shall be chargeable by virtue of this act, having received or deducted the duty so chargeable, then and in every of such cases the duty which shall be due and payable upon every such legacy and part of legacy, and residue and part of residue respectively, and which shall not have been duly paid and satisfied to his Majesty, his heirs and successors, according to the provisions of this act, shall be a debt of such person or persons having or taking the burthen of such execution or administration as aforesaid, to his Majesty, his heirs and successors; and in case any such person or persons so having or taking the burthen of such execution or administration as aforesaid, shall deliver, pay or otherwise howsoever satisfy or discharge any such legacy or residue, or any part of any such legacy or residue, to or for the benefit of any person or persons en-

If duty be not paid before legacies are retained by executors, or discharged, they having deducted it, the amount to be a debt from them to his Majesty; and if they pay legacies without deducting the duty, it shall be a debt from both parties.

titled thereto, without having received or deducted the duty chargeable thereon (such duty not having been first duly paid to his Majesty, his heirs or successors, according to the provisions herein contained), then and in every such case such duty shall be a debt to his Majesty, his heirs and successors, both of the person or persons who shall make such delivery, payment, satisfaction or discharge, and of the person or persons to whom the same shall be made (*f*).

What shall
be deemed
legacies
within the
intent of act.

VII. That any gift by any will or testamentary instrument of any person dying after the passing of this act, which shall by virtue of such will or testamentary instrument have effect or be satisfied out of the personal estate of such person so dying, or out of any personal estate which such person shall have power to dispose of as he or she shall think fit, shall be deemed and taken to be a legacy within the intent and meaning of this act, whether the same shall be given by way of annuity or in any other form, and whether the same shall be charged only on such personal estate, or charged also on real estate of the testator or testatrix who shall give the same, except so far as the same shall be paid or satisfied out of such real estate in a due execution of the will or testamentary instrument by which the same shall be given; and every gift which shall

(*f*) See 16 & 17 Vict. c. 51, s. 42, *post*.

The fact of a chancery suit having been instituted for administering the estate of the deceased is no answer to a rule obtained against an executor for an account, so far as the assets have been received and applied in payment of legacies; the Crown is not obliged to await the termination of a chancery suit for an account of such legacies as have been paid, and from which the executor should have deducted the duties. *Re Sammon*, 3 Mees. & W. 381. See also *Foster v. Ley*, 2 Scott, 438; *Attorney-General v. Hughes*, 11 Law J., N. S., Ch., 329.

have effect as a donation *mortis causa* shall also be deemed a legacy within the intent and meaning of this act (g).

VIII. That the value of any legacy given by way of annuity, whether payable annually or otherwise, for any life or lives, or for years determinable on any life or lives, or for years or other period of time, shall be calculated, and the duty chargeable thereon shall be charged, according to the tables in the schedule hereunto annexed (h), and the duty chargeable

The value of annuities, and the duty, to be calculated according to tables, and the duty paid by instalments, &c.

(g) The stat. 45 Geo. 3, c. 28, which first imposed a duty on legacies out of or charged upon real estate, contains a definition of a legacy which has been altered and extended by 8 & 9 Vict. c. 76, s. 4. See *post*.

(h) Where it shall be required to calculate for the purposes either of the Succession Duty Act, 1853, or of the Legacy Duty Acts, the value of any annuity, or of any interest chargeable with duty as an annuity, such value shall, after the 19th of May, 1853, be calculated according to the tables in the schedule annexed to the Succession Duty Act, 1853, and not according to the tables annexed to this act, and such annuity or interest shall be chargeable with duty accordingly. 16 & 17 Vict. c. 51, s. 31.

A testator, by his will, directed his executors to assign the residue of his personal estate to the trustees of the settlement of his niece Mrs. A., the wife of W. A., on trust out of the annual income to pay to her, during the joint lives of herself and her husband, an annual sum of 2,000*l.* for her separate use, and that they should stand possessed of the residue upon such trusts, and for such persons and interests as were expressed in a deed of settlement of Mrs. A. This deed provided, that the trustees should stand possessed of the settled property upon trust during the joint lives of W. A. and his intended wife, to pay her an annuity of 500*l.* upon trust to pay the residue or surplus of the dividends and annual produce of the stocks, funds, &c. unto W. A., and authorized him to receive the same during his life, and after the decease of either of them, to pay the dividends to the survivor, and authorized him, her or them to receive the same during the life of the survivor; it was held that, under 36 Geo. 3, c. 52, s. 8, the duty was to be charged on the value of 2,000*l.* a-year to Mrs. A. for the joint lives of herself and her husband W. A., and on the value of the residue of the income for the single life of W. A. *Attorney-General v. Lord Wynford*, 9 Exch. 746; 23 L. J., Exch. 223.

on such annuity shall be paid by four equal payments, the first of which payments of duty shall be made before or on completing the payment of the first year's annuity, and the three others of such payments of duty shall be made in like manner successively before or on completing the respective payments of the three succeeding years' annuity respectively; and the value of any such annuity, if determinable upon any contingency besides the death of any person or persons, shall be calculated without regard to such contingency. Provided always, that if any such annuity shall determine by the death of any person, before four years' payment of such annuity shall become due and payable, then and in such case the duty shall be payable in proportion only to so many of the payments of the said annuity as actually accrued and became due and payable; and in case any such annuity shall at any time determine upon any other contingency than the death of any person or persons, then and in such case, not only all payments of duty which would otherwise become due after the happening of such contingency, if any such would become due, shall cease, but it shall be lawful for the person or persons who shall have paid any duties which shall have previously become due to apply for and obtain a return of so much of the duty so paid as will reduce the same to the like duty as would have been payable by such person or persons for such annuity calculated according to the term for which the same shall have endured; which abatement the said Commissioners of Inland Revenue shall settle and determine according to the tables in the schedule hereunto annexed, and shall cause the

amount of such abatement to be paid to the person or persons entitled to the same out of any monies in their hands arising from the duties imposed by this act (i).

IX. That the value of any legacy given by way of annuity for any life or lives, or for years determinable on any life or lives, or for years or other period of time, and charged on and made payable out of any other legacy or legacies, shall be calculated and the duty shall be charged thereon in the same manner as hereinbefore directed with respect to other annuities; and the duty on the legacy charged with such annuity, if any duty shall be payable for such legacy, shall be calculated on the value of such legacy after deducting the value of such annuity; and the duty for such annuity shall be paid by the person or persons entitled to the legacy or legacies charged with such annuity by four equal payments, in the same manner as the same would be payable according to the provisions hereinbefore contained if such annuity had been a direct gift to the annuitant, and subject to the like proviso in case such annuity shall determine before four years' payment shall become due; and the payment which shall be made for such duty shall be retained by the person or persons paying the same out of the first four years' payments of such annuity, if so many shall become due, or out of so many of

The value of annuities payable out of legacies, and the duty, to be calculated according to tables, and the duty to be charged on the value of such legacies after deducting such annuities, &c.

(i) This section, and the 10th, 11th, 12th, 14th and 23rd sections, are applicable to the personal property comprised in any succession, and to the assessment and payment of duty thereon, as if such personal property were a legacy bequeathed by the predecessor to the successor, and were subject to the provisions of this act; and as if the tables in this act referred to were the tables in the schedules to the Succession Duty Act, 1853. 16 & 17 Vict. c. 51, s. 32. See *ante*, p. 89, n. (h).

such payments as shall become due, by equal portions.

Duty on legacies given to purchase annuities to be calculated on the sums necessary to purchase them.

X. That the duty payable upon any legacy given by direction to purchase with any personal estate of the testator or testatrix, or any part thereof, an annuity of a certain amount for the life or lives of any person or persons, or any other term, shall be calculated upon the sum necessary to purchase such annuity according to the tables before mentioned, and shall be deducted from such sum and paid as in the case of other pecuniary legacies; and the person or persons paying or satisfying such legacy, and the person or persons for whose benefit the same shall be paid or satisfied, shall be discharged by payment of such duty so calculated as aforesaid, from all other demands in respect of the duty payable on such legacy; and the annuity to be purchased for the person or persons entitled to the benefit of such legacy shall be reduced in proportion to the amount of the duty payable thereon as aforesaid, such reduction to be calculated in the same manner as the duty so payable is hereinbefore directed to be calculated; and the purchase of such reduced annuity, together with the payment of such duty, shall satisfy and discharge such legacy as fully as if an annuity had been purchased equal in amount to the annuity so directed to be purchased (*k*).

Duty on legacies whose value can only be ascertained by application of the allotted fund to be charged on the money as applied.

XI. That if any benefit shall be given by any will or testamentary instrument in such terms that the amount or value of such benefit can only be ascertained from time to time by the actual application for that purpose of the fund allotted for such

(*k*) This section applies to succession duty. See *ante*, s. 8, n. (*i*), p. 91.

purpose, or made chargeable therewith, or if the amount or value of any benefit given by any will or testamentary instrument cannot, by reason of the form and manner of the gift, be so ascertained that the duty can be charged thereon under any other of the directions herein contained, then and in every such case such duty shall be charged upon the several sums of money or effects which shall be applied from time to time for the purposes directed by such will or testamentary instrument as separate and distinct legacies or bequests, and shall be paid out of the fund applicable for such purposes, or charged with answering the same (1).

XII. That the duty payable on a legacy or residue or part of residue of any personal estate, given to or for the benefit of or so that the same shall be enjoyed by different persons in succession, who shall be chargeable with the duties hereby imposed at one and the same rate, shall be charged upon and paid out of the legacy or residue or part of residue so given, as in the case of a legacy to one person; and where any legacy or residue or part of residue shall be given to or for the benefit of or so that the same shall be enjoyed by different persons in succession, some or one of whom shall be chargeable with no duty, or some of whom shall be chargeable with different rates of duty, so that one rate of duty cannot be immediately charged thereon, all persons who, under or in consequence of any such bequest, shall be entitled for life only or any other temporary interest, shall be chargeable with the duty in respect

How duty on legacies enjoyed by persons in succession, or having partial interests therein, shall be charged,

(1) This section applies to succession duty. See *ante*, s. 8, n. (i), p. 91; *Re Wilkinson*, 1 Cr. M. & R. 142; 4 Tyrw. 513; *Attorney-General v. Nash*, 1 Mees. & W. 237; *Attorney-General v. Fitzgerald*, 13 Sim. 83; *Re Griffiths*, 14 Mees. & W. 510. See *post*, Chap. III.

of such bequest in the same manner as if the annual produce thereof had been given by way of annuity ; and such persons respectively shall be so chargeable with such duty, and the same shall be payable when they shall respectively become entitled to and begin to receive such produce, and shall be paid by equal portions during the aforesaid term of four years, if they shall so long continue to receive such produce ; and where any other partial interest shall be given, or shall arise out of such property so to be enjoyed in succession, the duty on such partial interest shall be charged and paid in the same manner as the duty is hereinbefore directed to be charged and paid in like cases of partial interests charged on any property given otherwise than to different persons in succession ; and all and every person and persons who shall become absolutely entitled to any such legacy or residue or part of residue so to be enjoyed in succession shall, when and as such person or persons respectively shall receive the same, or begin to enjoy the benefit thereof, be chargeable with and pay the duty for the same, or such part thereof as shall be so received, or of which the benefit shall be so enjoyed, in the same manner as if the same had come to such person or persons immediately on the death of the person by whom such property shall have been given to be enjoyed, or in such manner that the same shall be enjoyed in succession (*m*).

and by whom
payable.

XIII. That the duty payable on any legacy or residue or part of residue so given to or so to be enjoyed by different persons in succession, upon whom the duty shall be chargeable at one and the same

(*m*) This section applies to succession duty. See *ante*, s. 8, n. (*i*), p. 91.

rate, shall be deducted and paid by the person or persons having or taking the burden of the execution of the will or testamentary instrument under which the title thereto shall arise, upon payment or other satisfaction or discharge of every or any part of such legacy or residue or part of residue to any trustee or trustees or other person or persons to whom the same shall be payable or paid, in trust or for the benefit of the persons so entitled thereto in succession; and if the same shall not be so paid or satisfied to any such trustee or trustees, then such duty shall be deducted and paid out of the capital of the property so given, upon receipt by any of the persons so entitled in succession of any produce of such capital or any part thereof, according to the amount of the capital of which such produce shall be so received; and where the duty chargeable upon any such bequest for the benefit of or to be enjoyed by different persons in succession shall be chargeable at different rates, so that the same cannot be paid at one and the same time, but must be paid in succession as aforesaid, then and in such case all and every the person and persons having or taking the burden of the execution of the will or testamentary instrument in which such bequest shall be contained shall be chargeable with such duties in succession in the same manner as such persons would be chargeable with the like duties in case of immediate bequest, unless the property bequeathed shall have been paid or otherwise satisfied to or vested in any trustees or trustee as aforesaid, in which case such trustees or trustee, or his, her or their representatives, shall be chargeable with the duties for and in respect of such property so vested in him, her or them respectively, in such and the same manner

as if he, she or they had had or taken the burden of the execution of the will or testamentary instrument by which such bequest shall have been made; and in like manner, where any partial interest shall be given or shall arise out of any such property so to be enjoyed in succession, and such partial interest shall be satisfied or paid by the person or persons so enjoying such property, such person or persons shall be chargeable with the duties for and in respect of such partial interest, and shall retain and pay the same accordingly, in such and the same manner as if he, she or they had had or taken the burden of the execution of the will or testamentary instrument by which such partial interest shall have been created; and in all such cases the person or persons so chargeable with duty shall be debtors to the King's Majesty, his heirs and successors, in like manner, and shall be subject to the like penalties, as the person or persons having or taking the burden of the execution of such will or testamentary instrument are hereby made chargeable and subject to (n).

Plate, &c.
while enjoyed
in kind, not
liable to duty
till in possession
of persons having
power to dispose
thereof.

XIV. Provided always, and be it further enacted, that no duty shall be paid on any articles of plate, furniture or other things not yielding any income, and given to or for the benefit of or so as that the same be enjoyed by different persons in succession, whilst the same shall be so enjoyed in kind only by any person or persons not having any

(n) A testator bequeathed the residue of his personal estate to his executors in trust for his wife for life, and after her decease, for his nephews and nieces, whereby legacy duty would be payable on the death of the wife:—it was held, that under this section, the executrix of the surviving executor might, during the life of the widow, transfer the trust fund to new trustees of the will appointed by the Court. *Re Jones's trust*, 21 Law J., Ch., 566.

power of selling or disposing thereof, so as to convert the same into money or other property yielding an income; but if the same shall be actually sold or disposed of, or shall come to any person or persons having power to sell or dispose thereof, or having an absolute interest therein, then and in each and every such case the same duty shall be chargeable and paid thereon as if the same had been originally given absolutely and with full power to sell or dispose thereof, and shall be chargeable upon and paid by the person or persons for whose benefit the same shall be sold, or who shall have power to sell or dispose thereof, or an absolute interest therein, and shall become the debt of such person or persons, but shall not be a charge on any person or persons by reason of his, her or their having assented to such bequest, as the person or persons having or taking the burden of the execution of the will or testamentary instrument by which such bequest shall have been made (o).

XV. Provided always, where any legacy or any residue or part of residue shall be so given by any will or testamentary instrument that different persons shall become entitled thereto in succession, the duty shall be charged thereon as given to be enjoyed in succession, whether the person or persons entitled thereto shall take the same under or by virtue of such will or testamentary instrument and the dispositions therein contained, or in default of such dispositions and as entitled by intestacy.

Duty on legacies enjoyed in succession to be charged as such, whether taken under wills or by intestacy.

XVI. That where any legacy or residue or part of residue shall be given to or for the benefit of any person or persons in joint tenancy, some or one

Duty on legacies in joint tenancy to be paid in proportion to the interest of the parties.

(o) This section is applicable to the personal property comprised in any succession, and to the assessment and payment of duty thereon. See *ante*, s. 8, n. (i), p. 91.

of whom shall be chargeable with any duty hereby imposed, and some or one of whom shall not be so chargeable, the person or persons chargeable with duty shall pay such duty in proportion to the interest of such person or persons respectively in such bequest; and if any person or persons chargeable with duty and entitled in joint tenancy as aforesaid shall become entitled by survivorship, or by severance of the joint tenancy, to any larger interest in the property bequeathed than that in respect of which such duty shall have been paid, then and in such case all and every such person or persons so becoming entitled by survivorship or by severance shall be charged with the same duty as if the property to which such joint tenant or joint tenants shall so become entitled had been originally given to or for the benefit of such person or persons only (*p*).

Duty on legacies subject to contingencies to be charged as for absolute bequests, &c.

XVII. That when any legacy or any residue or part of residue shall be given subject to any contingency which may defeat such gift, and whereupon the same may go to some other persons or person, such bequest (unless chargeable as an annuity under the provisions herein contained) shall be charged with duty as an absolute bequest to the person or persons who shall take the same, subject to such contingency, and such duty shall be paid out of the capital of such legacy or residue or part of residue, notwithstanding the same may, upon such contingency, go to some person not chargeable with the same duty, or with any duty; and if such contingency shall afterwards happen, and the property so bequeathed shall thereupon go in such manner that the same, if taken immediately after the death of the testator or testatrix, under the same

(*p*) See 16 & 17 Vict. c. 51, s. 3.

title, would have been chargeable with a higher rate of duty than the duty so paid, the person or persons becoming entitled thereto shall be charged with and shall pay the difference between the duty so paid and such higher rate of duty (*q*).

XVIII. That where any legacy or the residue or any part of the residue of any personal estate shall be subjected to any power of appointment to or for the benefit of any person or persons specially named or described as objects of such power, such property shall be charged with duty as property given to different persons in succession, and in so charging such duty not only the person and persons who shall take previous or subject to such power of appointment, but also any person and persons who shall take under or in default of any such appointment, when and as they shall so take respectively, shall, in respect of their several interests, whether previous or subject to or under or in default of such appointment, be charged with the same duty and in the same manner as if the same interests had been given to him, her or them respectively, in and by the will or testamentary disposition containing such power, in the same order and course of succession as shall take place under and by virtue of such power of appointment, or in default of execution thereof, as the case may happen to be; and where any property shall be given for any limited interest, and a general and absolute power of appointment shall also be given to any person or persons to whom the property would not belong in default of such appointment, such property, upon the execution of such power, shall be

How duty on legacies subjected to power of appointment shall be charged;

(*q*) The duty on successions is to be calculated without regard to contingencies. 16 & 17 Vict. c. 31, s. 36.

charged with the same duty and in the same manner as if the same property had been immediately given to the person or persons having and executing such power, after allowing any duty before paid in respect thereof; and where any property shall be given with any such general power of appointment, which property in default of appointment will belong to the person or persons to whom such power shall also be given, such property shall be charged with and shall pay the duty by this act imposed, in the same manner as if such property had been given to such person or persons absolutely in the first instance, without such power of appointment (r).

and how on
personal
estates di-
rected to be
applied in
purchase of
real estates.

XIX. That any sum of money or personal estate directed to be applied in the purchase of real estate shall be charged with and pay duty as personal estate, unless the same shall be so given as to be enjoyed by different persons in succession, and then each person entitled thereto in succession shall pay duty for the same in the same manner as if the same had not been directed to be applied in the purchase of real estate, unless the same shall have been actually applied in the purchase of real estate before such duty accrued; but no duty shall accrue in respect thereof after the same shall have been actually applied in the purchase of real estate for so much thereof as shall have been so applied: Provided nevertheless, that in case before the same or some part thereof shall be actually so applied, any person or persons shall become entitled to an estate of inheritance in possession in the real estate

(r) See *Platt v. Routh*, 6 Mees. & W. 756; 3 Beav. 257, on the construction of this section; 16 & 17 Vict. c. 51, s. 4, as to successions conferred by powers of appointment.

to be purchased therewith, or with so much thereof as shall not have been applied in the purchase of real estate, the same duty which ought to be paid by such person or persons if absolutely entitled thereto as personal estate by virtue of any bequest thereof as such shall be charged on such person or persons, and raised and paid out of the fund remaining to be applied in such purchase (s).

XX. That estates *pur auter vie*, applicable by law in the same manner as personal estate, shall be charged with the duties hereby imposed as personal estate (t).

Estates *pur auter vie* applicable as personal estates to be charged as such.

XXI. Provided always, that if any direction shall be given by any will or testamentary instrument for payment of the duty chargeable upon any legacy or bequest out of some other fund, so that such legacy or bequest may pass to the person or persons to whom or for whose benefit the same shall be given, free of duty, no duty shall be chargeable upon the money to be applied for the payment

Money left to pay duty not chargeable as a legacy.

(s) See *Attorney-General v. Hancock*, 2 Mees. & W. 563, 597; 16 & 17 Vict. c. 51, s. 30, as to the charge of succession duty on personal property subject to be invested in real estate.

(t) The 7 Will. 4 & 1 Vict. c. 26, s. 6, enacts, that if no disposition by will shall be made of any estate *pur auter vie* of a freehold nature, the same shall be chargeable in the hands of the heir if it shall come to him by reason of special occupancy as assets by descent, as in the case of freehold land in fee simple; and in case there shall be no special occupant of any estate *pur auter vie*, whether freehold or customary, freehold tenant right, customary or copyhold, or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the executor or administrator of the party that had the estate thereof by virtue of the grant, and if the same shall come to the executor or administrator either by reason of a special occupancy, or by virtue of the act 7 Will. 4 & 1 Vict. c. 26, it shall be assets in his hands, and shall go to be applied and distributed in the same manner as the personal estate of the testator or intestate.

Estates *pur auter vie*.

of such duty, notwithstanding the same may be deemed a legacy, to or for the benefit of the person or persons who would otherwise pay such duty (u).

Mode of as-
certaining
duty on pro-
perty not re-
duced into
money.

XXII. That in cases of specific legacies, and where the residue of any personal estate shall consist of property which shall not be reduced into money, it shall be lawful for the person or persons having or taking the burden of the administration of such effects, or the person or persons by whom the duty thereon ought to be paid, to set a value thereon, and offer to pay the duty according to such value, or to require the Commissioners of Inland Revenue to appoint a person to set such value, at the expense of the person or persons by whom such duty ought to be paid; and it shall be lawful for the commissioners to accept the duty offered to be paid, upon the value set by the person or persons having or taking the administration of such effects, or by whom the duty for the same shall be payable, without such appraisement, if the said commissioners shall think fit so to do; but if the said commissioners shall not be satisfied with the value so set, on which the duty shall be so offered, it shall be lawful for the said commissioners, notwithstanding such offer, to appoint a person to appraise such effects, and to set the value thereon, on which value so set the said commissioners shall assess the duty payable in respect thereof, and require the same to be paid; but if the person or persons by whom such duty shall be payable shall not be satisfied with the valuation made under the authority of the said commissioners, and pay the duty accordingly, it

(u) Succession duty is not chargeable upon any monies applied to the payment of the duty on any succession according to any trust for that purpose. 16 & 17 Vict. c. 51, s. 18.

shall be lawful for such person or persons to cause the valuation so made under the authority of the said commissioners to be reviewed by the commissioners of the land tax for the time being of the district or place where such effects shall be, at their next meeting, after the said Commissioners of Inland Revenue shall have assessed and required payment of such duty as aforesaid, if fourteen days shall have elapsed between such time and the meeting of the said commissioners of land tax, and if not, then at the next succeeding meeting of the said commissioners, of which appeal six days notice shall be given to the said Commissioners of Inland Revenue; and the said commissioners of the land tax shall and may (if they think fit) appoint a person to appraise such effects, and set a value thereon, and shall and may hear and determine such appeal, in the same manner as in any other cases of appeal to them, and with the like authorities, and their judgment shall be final; and if the valuation made under the authority of the said Commissioners of Inland Revenue in the case last mentioned shall not be duly appealed from within the time aforesaid, or shall be affirmed upon appeal, the duty shall be paid according to such valuation, and if any variation shall be made on such appeal the duty shall be paid according to such variation; and if the duty assessed in manner aforesaid shall exceed the duty offered to and refused by the said Commissioners of Inland Revenue, the expense of such appraisement and other proceedings in assessing such duty shall be borne by the person or persons by whom such duty shall be payable; and if any dispute shall arise between any person or persons entitled to any

such legacy or residue or part of residue, and any person or persons having or taking the burden of the administration of such effects, with respect to the value thereof, or with respect to the duty to be paid thereon, the duty shall be assessed by the said Commissioners of Inland Revenue, on reference to them by either party for that purpose; and if the value of any property on which such duty ought to be paid shall be in dispute, the said Commissioners of Inland Revenue shall cause an appraisement to be made thereof, at the expense of the person or persons by whom such duty ought to be paid, in the manner hereinbefore directed in other cases, and assess the duty thereon accordingly; and if such person or persons by whom such duty ought to be paid shall be dissatisfied with such valuation, or with the assessment of duty made upon such valuation by the said Commissioners of Inland Revenue, the same shall be reviewed and finally determined by the said commissioners of the land tax, upon appeal to them within the time and under the restrictions and in the manner hereinbefore directed in other cases; but if such valuation or assessment shall not be duly appealed from within the time limited for that purpose, or shall be affirmed upon appeal, the duty shall be paid according thereto; and if any variation shall be made therein on such appeal, the duty shall be paid according to such variation; and in case the effects whereon any such duty shall be payable shall be at the distance of ten miles from London, then and in such case it shall be lawful to make the like application to such person as shall be deputed for that purpose by the said commissioners to act in their stead in such cases within the county or district in which such

effects shall be; and such person so deputed shall act in such cases in all respects in the same manner as the said commissioners are hereby authorized to act, subject nevertheless to the instructions and control of the said commissioners.

XXIII. That where any legacy or part of any legacy or residue or part of residue, whereon any duty shall be chargeable by this act, shall be satisfied otherwise than by payment of money or application of specific effects for that purpose, or shall be released for consideration, or compounded for less than the amount or value thereof, then and in such case the duty shall be charged and paid in respect to such legacy or part of legacy, or residue or part of residue, according to the amount or value of the property taken in satisfaction thereof, or as the consideration for release thereof or composition for the same: Provided always, that if any legacy or bequest shall be made in satisfaction of any other legacy or bequest or title to any residue or part of residue of any personal estate remaining unpaid, the duty shall not be paid on both subjects, although both may be chargeable with duty, but shall be paid on the subject yielding the largest duty (x).

Duty on legacies not satisfied in money, &c. to be paid according to the value of the satisfaction.

XXIV. That if any person or persons having or taking the burden of the execution of the will or other testamentary instrument or the administration of the personal estate of any person deceased, or any other person or persons hereby made chargeable with duty, shall declare himself, herself, or themselves ready and willing, and shall accordingly offer to pay any pecuniary legacy or residue or

If legatees refuse to accept legacies, duty deducted, the court, in case of suit may order them to pay costs;

(x) This section applies to succession duty. See *ante*, s. 8, n. (i), p. 91.

part of residue, deducting the duty payable thereon, or shall in like manner offer to deliver or otherwise dispose of any specific legacy, or any specific property, part of any residue of any personal estate, to or for the benefit of the person or persons entitled thereto, or to any trustee or trustees for such person or persons, upon payment of the duty payable in respect thereof, and the person or persons entitled to such legacy or residue or part of residue, or the trustee or trustees for such person or persons, shall refuse to accept such offer, and to give a proper release and discharge for such legacy or residue, or so much thereof as shall be offered to be paid, delivered, or otherwise disposed of as aforesaid, then and in such case, although no actual tender shall be made, if any suit shall be afterwards instituted for such legacy or effects, respecting which such offer shall have been made, it shall be lawful for the court in which such suit shall be instituted to order all costs, charges and expenses attending the same, to be paid by the person or persons who shall have refused to accept such offer, and to give or join in such release or discharge, or to order such costs, charges and expenses, to be deducted and retained out of such legacy and effects, together with the duty payable thereon, as the said court shall see fit; and in case any suit shall be instituted for payment of any legacy or residue or part of residue of any personal estate, and the person or persons sued for the same shall be desirous of staying proceedings in such suit on payment of the money due, or delivering or otherwise disposing of the specific effects demanded, after deducting or receiving the duty payable thereon, it shall be lawful for the court in

and in suits where the party sued may wish to stop proceedings on payment of bequests, deducting duty, the court may make order therein.

which such suit shall be instituted, if it shall see fit, on application in a summary way, to make such order for payment of such legacy or residue or part of residue, or for delivering or otherwise disposing of such effects, and for payment of the duty payable thereon, and all such costs, charges and expenses attending such suit, as shall be just.

XXV. That if any suit shall be instituted concerning the administration of the personal estate of any person dying testate or intestate, or any part of such estate in which any direction shall be given touching the payment of any legacies or legacy of such person, or the residue of his or her personal estate, or any part thereof, the court wherein such suit shall be instituted shall, in giving directions concerning the same, provide for the due payment of the duties hereby imposed; and in taking any account of any personal estate, or otherwise acting concerning the same, such court shall take care that no allowance shall be made in respect of any legacy or part of legacy, or of any residue or part of residue, in any manner whatsoever, without due proof of the payment of the duties hereby imposed (*y*).

If suit be instituted concerning administration, the court to provide for payment of the duty.

XXVI. Provided always, that any person or persons having or taking the burden of the execution of any will or other testamentary instrument, or the administration of the personal estate of any person deceased, may from time to time pay, deliver or otherwise dispose of any legacy or any part of any legacy, or make distribution of any part

Executors may discharge legacies on payment of the duty accrued.

(*y*) See *Thomas v. Montgomery*, 3 Russ. 502; *Foster v. Ley*, 2 Scott, 438; 2 Bing. N. R. 299; *Re Sammon*, 3 Mees. & W. 381, *ante*, p. 88. The 53rd section of the Succession Duty Act, 1853, provides that the court, in suits for the administration of property, shall provide for the payment of duty. See Order in Chancery, 9th March, 1854.

of the residue of any personal estate, on payment from time to time of such proportions of the duty hereby imposed as shall accrue in respect of such part of such personal estate as shall be so administered.

No legacy
liable to duty,
to be paid
without a
receipt con-
taining cer-
tain par-
ticulars ;

XXVII. That no person or persons having or taking the burden of the execution of any will or testamentary instrument, or the administration of the personal estate of any person deceased, nor any trustee or trustees or other person or persons hereby directed and required to account for any duty, shall, from and after the passing of this act, pay, deliver or otherwise dispose of, or in any manner satisfy, discharge or compound for, any legacy whatsoever, or any part thereof, or the residue of any personal estate, or any part thereof, in respect whereof any duty is hereby imposed, without taking a receipt or discharge in writing for the same, expressing the date of such receipt or discharge, and the names of the testator, testatrix or intestate under whose will or testamentary disposition or upon whose intestacy the title to such legacy or part of legacy, or to such residue or part of residue, shall accrue, and of the person or persons to whom such receipt or discharge shall be given, and of the person or persons to whom such legacy or residue or part of residue shall have been given or shall have belonged in consequence of intestacy, and the amount or value of the legacy or part of legacy, or residue or part of residue, for which such receipt or discharge shall be given, and also the amount and rate of the duty payable and allowed thereon ; and that no written receipt or discharge for any legacy or part of any legacy, or for the residue of any personal estate, or any part of such residue, in respect whereof any

no receipt
available un-
less duly
stamped, &c.

duty is hereby imposed, shall be received in evidence or be available in any manner whatever unless the same shall be stamped as required by this act; and no evidence whatsoever shall be given of any payment, satisfaction or discharge whatsoever, or of any release or composition of such legacy or any part thereof, or of such residue or any part thereof, without producing such receipt or discharge, duly stamped as aforesaid, unless the actual payment of the duty hereby imposed shall first be given in evidence: Provided always, that a copy of the entry in the books of the Commissioners of Inland Revenue of the payment of such duty shall be admitted as evidence thereof (z): Provided also, that payment of any annuity shall not be deemed a payment for which such stamped receipt shall be required, under the directions of this act, except the several payments which shall complete the payments for each of the first four years during which such annuity shall be payable; and in like manner any payment in respect of any legacy or bequest hereby directed to be charged with the duty in the same manner as annuities are hereby made chargeable with duty shall not be deemed a payment for which such stamped receipt shall be required, except the several payments which shall complete the payments for each of the first four years in respect of which such legacy or bequest shall be chargeable with duty as an annuity.

XXVIII. That any person having or taking the burden of the execution of any will or testamentary

Copy of entry at stamp office of payment of duty, evidence.

Stamped receipts for annuities not required but on completing payments for each of the first four years.

Penalty of 10l. per cent. for paying or receiving legacies without stamped receipts.

(z) A copy of an entry in the books is evidence of the fact of payment of the legacy duty, if proved by the affidavit of a person who has examined it. A copy signed by the Comptroller of Stamp Duties was held insufficient. *Harrison v. Berwall*, 4 Jur. 245.

instrument, or the administration of the personal estate of any person deceased, and any trustee or trustees or other person or persons hereby directed and required to account for any duty, who shall pay, deliver or otherwise dispose of or in any manner satisfy or discharge or compound for any legacy given by such will or testamentary instrument, or the residue or any part of the residue of such personal estate, to or for the benefit of any person or persons entitled to such legacy or any part thereof, or to such residue or any part thereof, without taking such receipt or discharge in writing as aforesaid, and causing the same to be stamped, within the time hereby allowed for stamping the same, shall forfeit and lose the sum of ten pounds per centum on the sum of money, or the value of the property if not money, for which such receipt or discharge ought to have been given in pursuance of this act; and all and every person and persons receiving or taking the benefit of any such money or other property, without giving a written receipt or discharge for the same, in which the duty payable in respect thereof shall be expressed to have been allowed or paid to the person or persons to whom such receipt or discharge shall be given, and which shall bear date on the day of signing the same, shall forfeit and lose the sum of ten pounds per centum on the sum of money, or on the value of the property, so received or taken.

Receipts to be stamped within 21 days after date on which an acknowledgment of payment of the duty shall be written, &c.

XXIX. That every such receipt or discharge shall be brought, within the space of twenty-one days after the date thereof, to the said head office of the said commissioners, or to some other office to be appointed by the said commissioners for such purpose, to be stamped, paying the duty for the

same, and upon such payment either at the said head office or at any other office to be appointed as aforesaid, the receiver-general or other proper officer to be appointed for that purpose by the said commissioners, as the case shall require, shall write upon such receipt or discharge an acknowledgment of the payment of the duty so paid in words at length, and bearing date the day on which such payment shall be made, and shall subscribe his name thereto, and enter an account thereof in a book or books to be provided for that purpose, to the intent that he may be thereby charged with the sum so paid; and in case the duty shall be so paid at the said head office, then the receipt or discharge so brought to be stamped shall be forthwith stamped with one of the said four stamps as the case shall require; and in case the duty shall be so paid at any other office to be appointed by the said commissioners as aforesaid, the receipt or discharge whereon such acknowledgment of the payment of duty shall be so written and subscribed shall be transmitted, within the space of twenty-one days from the day of payment of such duty, to the said head office to be stamped, and the same shall be stamped accordingly with one of the said four stamps as the case shall require; and in case the person or persons paying such duty at any such office to be appointed as aforesaid shall be desirous that the same should be transmitted to the said head office by the officer to whom such duty shall be paid, and shall leave the same with such officer for such purpose, such officer shall thereupon sign and deliver an acknowledgment that such receipt or discharge has been left with him for such purpose, and shall transmit such receipt or discharge to such head office to be stamped as aforesaid,

Receipts may be stamped within three months after date, on payment of duty, and 10*l.* per cent. penalty;

but none to be stamped unless the duty be paid, and they are brought to be stamped within the limited time.

Commissioners may stamp receipts for

and the same shall be sent again to such officer as soon as conveniently may be after the stamping thereof; and such officer shall deliver back the same to the person or persons entitled thereto, upon re-delivery to him of the acknowledgment which he shall have given for the same: Provided always, that if any such receipt or discharge shall not be so brought to any such office as aforesaid, within such space of twenty-one days as aforesaid, it shall nevertheless be lawful to carry such receipt or discharge to the said head office to be stamped in like manner, within three calendar months after the date thereof, paying the duty for the same, and also the further sum of ten pounds per centum on such duty by way of penalty for not having before paid such duty, on payment of which duty and penalty the said commissioners are hereby authorized and required to stamp such receipt or discharge, in the same manner as if the same had been brought to the said office within the space of twenty-one days from the date thereof; but the said commissioners or any of their officers shall not on any pretence whatever, except as hereinafter directed, stamp any vellum, parchment, or paper, upon which any receipt or discharge for any legacy or part of legacy, or any residue of any personal estate, or any part thereof, shall be written or signed, with the said new stamps or any of them, unless the duty for the same shall be paid, and such receipt or discharge shall be produced to be so stamped in manner aforesaid, within the times and in the manner hereinbefore respectively limited and appointed (a).

(a) By 48 Geo. 3, c. 149, s. 44, where any receipt or discharge given for any legacy, or for the residue or any share of the residue of any personal estate which shall have been given by will or other testamentary instrument, or have de-

XXX. That if it shall appear to the satisfaction of the said commissioners, upon oath or affirmation, to be administered by a justice of the peace, or master or masters extraordinary in Chancery, which oath or affirmation such persons are hereby empowered to administer, that less duty has been paid for any legacy or residue or part of residue than ought to have been paid for the same, by mistake, without any intention to defraud; and if application shall be made to the said commissioners to rectify such mistake, and accept the duty really due before any suit shall be instituted concerning the same, and within three calendar months after payment of the money actually paid instead of the just duty, it shall be lawful for the said commissioners to accept the difference between the money paid and the just duty, together with the sum of ten pounds per centum on such difference, by way of penalty, in full for the just duty, and which shall be in discharge of all penalties incurred by nonpayment of such duty, and to cause an acknowledgment of the payment of the just duty to be written on the receipt or discharge given for such

Mistakes in paying duty may be rectified, if no suit be instituted, on payment of the difference within three months, and 10*l.* per cent.

involved to any person or persons upon intestacy, shall be brought to the head office to be stamped after the expiration of three calendar months from the date thereof, it shall be lawful for the said commissioners to cause the same to be duly stamped for making the same available on payment of the duty which shall be payable in respect thereof, together with the penalty incurred, in consequence of the same not having been brought to be stamped before the expiration of such three calendar months; and where any such receipt or discharge shall have been signed out of Great Britain, if the same shall be brought to be stamped within twenty-one days after its being received in Great Britain, it shall be lawful for the said commissioners to remit any penalty that may have been incurred thereon, and to cause the same to be duly stamped on payment of the duty payable in respect thereof, anything contained in any former act or acts to the contrary notwithstanding.

legacies brought after three months from the date on payment of duty and penalty, and may remit penalty if signed out of Great Britain.

legacy or residue or part of residue, and to be subscribed by the proper officer, and also to cause such receipt or discharge to be properly stamped if necessary, in the same manner as would have been done if the just duty had been originally paid.

Persons paying or receiving money contrary to this act, indemnified on discovering the other offender.

XXXI. Provided always, that the party or parties paying or satisfying any legacy, or any residue of any personal estate, or any part of such residue, or receiving the same contrary to the provisions of this act, who shall, within the space of twelve calendar months after the offence committed, discover the other party or parties offending therein, so that such party or parties so discovered be thereupon convicted, such person so discovering shall be indemnified and discharged from all penalties incurred for any offence against this act.

If by infancy or absence legacies cannot be paid, the money may be paid into the bank, and laid out in the 3l. per cents.

XXXII. Provided always, that where, by reason of the infancy or absence beyond the seas of any person entitled to any legacy, or to the residue of any personal estate, or any part thereof, chargeable with duty by virtue of this act, the person or persons having or taking the burden of any will or testamentary instrument, or the administration of such personal estate, cannot pay such legacy or some part thereof, although he, she or they may have effects for that purpose, or cannot pay such residue or some part thereof, although he, she or they may have the same or some part thereof in his, her or their hands, it shall be lawful for such person or persons to pay such legacy or residue, or any parts or part thereof respectively, or any sum or sums of money on account thereof, after deducting the duty chargeable thereon, into the bank of England, with the privity of the accountant-general of the Court of Chancery, to be placed to the account of the person

or persons for whose benefit the same shall be so paid, for payment of which money the said accountant-general shall give his certificate as usual in such cases, on production of the certificate of the Commissioners of Inland Revenue, that the duty thereon has been duly paid; and such payment into the bank shall be a sufficient discharge for the money so paid in, provided the duty be also paid thereon as aforesaid; and such money when paid in shall be laid out by the said accountant-general, without any formal request for that purpose, in the purchase of three pounds per centum consolidated annuities, which, with the dividends thereon, shall be transferred and paid to the person or persons entitled thereto, or otherwise applied for his or their benefit, on application to the Court of Chancery, by petition or motion in a summary way: Provided always, If such money be improperly paid in, Chancery may dispose thereof; if more than the proper duty has been paid, the commissioners may return the excess; that if it shall afterwards appear that such money or any part thereof has been improperly paid into the bank as aforesaid, it shall also be lawful for the said Court of Chancery, upon petition in a summary way to dispose thereof, and of the annuities purchased therewith, and the dividends received thereon, in such manner as justice shall require: Provided also, that if it shall appear that the duty paid in respect of any such sum of money was more than ought to have been paid, it shall be lawful for the person or persons who shall have paid such duty to apply to the said Commissioners of Inland Revenue, to repay such excess of duty; and the said commissioners are hereby authorized, upon such application, to repay such excess of duty to the person or persons who shall appear to them entitled to receive the same, or to pay such excess of duty into the bank, with the privity of the said

and if less,
on payment
of the full
duty, the
Chancery
may order
repayment to
the party.

accountant-general, for the benefit of the person or persons entitled, there to be placed to the same account and to be applied in the same manner as the same would have been applicable if paid together with the remainder of the legacy or sum of money in respect of which the same shall have been paid; and the said commissioners are hereby authorized to make such payments respectively out of the monies in their hands arising from duties imposed by this act; and if the duty paid to the said commissioners shall appear to be less than the duty which ought to have been paid, it shall be lawful for the person or persons who paid such money into the bank as aforesaid, upon payment of the full duty to the said commissioners, in such manner as the same ought to be paid, with such penalties, if any, as ought to be paid in respect thereof, to apply to the Court of Chancery, in a summary way, for the repayment of the further sum paid to the said commissioners for such duty out of the money in the bank so paid in by such person or persons, or the produce thereof, which payment the said court is hereby authorized to order (b).

(b) The 37 Geo. 3, c. 135, contains directions as to the filing and entering of the accountant-general's certificates and drafts, and authorizes the court to make orders respecting the monies paid in under this section.

Before the passing of this act, the costs of a bill filed by an infant to have his legacy secured, were paid out of the testator's estate; but since this act the court will not give such costs, for the executor has nothing to do but to pay the legacy into court under this act, and the infant, when of age, may petition for it. *Whopham v. Wingfield*, 4 Ves. 630.

The executor is not bound to pay the legacy into the bank under the statute till the expiration of a year from the testator's death. Toller, 319; 2 Wms. Exors., 1210, 4th edit.

XXXIII. That if at the end of two years after the death of any person deceased, it shall appear to the satisfaction of the said Commissioners of Inland Revenue that it will require time to collect the debts or effects of such person then outstanding, or that from circumstances it will be difficult to ascertain or adjust the amount of the clear residue of the personal estate of such person liable to duty, and the parties interested therein shall be desirous of compounding for the duty thereon, it shall be lawful for such parties respectively, with the consent of the Commissioners of Inland Revenue, to make application to the Court of Exchequer at Westminster, if the deceased person resided in England or elsewhere, except in Scotland, and to the Court of Exchequer in Scotland, if the deceased resided in Scotland, for leave to compound such duty, stating upon oath the particulars of the personal estate for which such composition shall be proposed to be made, by affidavit to be filed in the said court, and declaring at the same time upon oath whether any other property of the deceased then outstanding, besides the property for which such composition shall be proposed to be made, hath come to the knowledge of the said parties or any of them, and the nature thereof, and the circumstances attending the same; and in such case it shall be lawful for the said Court of Exchequer in England or Scotland, as the case may be, to appoint a proper person to set a value on the personal estate, or such part thereof, for which no duty shall have been charged, and which shall be specified in such affidavit as the property for which such composition shall be desired, and to adjust and settle the duty

If it shall appear to the commissioners, at the end of two years after the death of any person, that it will require time to collect the effects, or be difficult to ascertain the residue of the personal estate, the duty may be compounded for.

which justly and equitably under all circumstances ought to be paid in respect of such personal estate so specified; and thereupon it shall be lawful for the said commissioners, and they are hereby required, if the said Court of Exchequer to which such application shall be made shall confirm the said adjustment and settlement, and order the duty to be accepted accordingly, and by authority of such order, to accept payment of the sum so adjusted and settled, in full discharge of the duty on so much of such personal estate as shall be so specified, and according to such order, and to enter the same in their books accordingly, and to grant certificates thereof, expressing the receipt of such duty by way of composition under such order; and every such person to whom such certificate shall be granted, and every future representative of the same estate, and all persons entitled to the benefit of the property for which such composition shall be so paid, shall be discharged from any further payment of duty on the same; and in all future payments of such property it shall be lawful for the persons having or taking the burden of the execution of any will or testamentary instrument disposing such property, or the administration thereof, to pay, apply and dispose of the same, and for all persons entitled to the benefit thereof to receive the same, without having the receipts and discharges in writing hereby required to be given and taken for the same stamped as hereinbefore directed, provided such receipts or discharges shall express the same to be given under the authority of such composition as aforesaid, and not liable to duty: Provided always, nevertheless, that the duty

Duty to be

shall be charged and paid upon all and every part of the personal estate of such person deceased, other than that which shall be specified in such affidavit as aforesaid, and included in the valuation in which such composition shall have been made as aforesaid, and for which the Court of Exchequer shall allow and order such composition to be taken as aforesaid, in the same manner as if no such composition had been made; and all and every person and persons shall be liable to all the like penalties and forfeitures for not duly paying the duty for such personal estate not compounded for, and subject to the like rules, methods and directions for charging such duty, as such person and persons respectively would be liable to if such composition had not been made.

XXXIV. That if at any time after payment of duty on any legacy, or residue or part of residue of the personal estate of any person deceased, any debt shall be recovered against the estate of such deceased person, or any loss shall happen by reason whereof or for any other just cause any legatee or other person by whom any legacy or part of legacy, or any residue of any personal estate, hath been received or retained shall be obliged to refund the same or any part thereof, then in every such case it shall be lawful for the said Commissioners of Inland Revenue, and they are hereby required, on due proof made on oath as aforesaid, to their satisfaction of the amount of such sums refunded, and that by reason thereof there hath been an overpayment of duty, to settle and adjust the amount of such overpayment, and to repay the same out of the money in their hands arising from the duties by

paid on any part of personal estates not included in the composition.

If any legacy be refunded, the duty to be repaid.

this act imposed, or to allow the same in future payments, as the case may permit or require.

Executors previous to retaining their legacies to transmit the particulars, with the duty offered, to the commissioners who shall charge the same agreeable to this act.

XXXV. That whenever any person or persons having or taking the burden of the execution of any will or testamentary instrument, or the administration of any personal estate as aforesaid, shall be entitled to any legacy, or the residue or any part of the residue of the personal estate of any testator, testatrix or intestate, such person shall be chargeable with the duty whenever he, she or they shall be entitled in due course of administration to retain to his, her or their own use any part of the said estate, in satisfaction of such legacy or residue or any part thereof; and every such person, before any such retainer, shall transmit to the said Commissioners of Inland Revenue or their officers a note containing the particulars of such legacy, residue or part of residue intended to be retained, and the amount or value thereof, and the duty which such person or persons shall offer to pay thereon; and the said commissioners shall charge and assess the duty thereon in such manner as the duty shall be chargeable thereon by virtue of the provisions of this act contained, and such duty shall be paid accordingly; and on payment of the said duty the said receiver-general of the said duty, or officer appointed to receive the same, shall, at the foot of a duplicate of the said assessment, duly stamped, in such manner as the said commissioners shall direct for such purpose, give a receipt for such duty in such form of words as the said commissioners shall direct, which receipt shall be a discharge for the duty expressed therein; and in case any such person or persons shall neglect to pay such duty as

Penalty for neglect of payment of duty for fourteen days.

aforesaid, within fourteen days after the same ought to have been paid as aforesaid, every such person and persons shall forfeit and pay treble the value of the duty which ought to have been paid.

XXXVII. That if the authority under or by colour of which any person shall have administered the estate or effects of any person deceased, or any part thereof, shall be void, or be repealed, or declared void, and such person shall, before the avoidance, repeal, or declaration of avoidance, have paid any duty hereby imposed or any duty imposed by any of the said former acts, which shall not be allowed to such person out of the estate or effects of such deceased person, by reason that the same duty was not really due or payable, the money paid for such duty shall, on proof thereof to the satisfaction of the said Commissioners of Inland Revenue, be repaid to the person or persons who shall have paid the same, or his, her or their representatives, by the said commissioners, out of any monies in their hands arising from the duties imposed by this act or the said former acts; but in case such duty ought to have been paid by the rightful executor or executors, administrator or administrators of such deceased person, then and in such case the payment of such duty shall be valid and effectual, notwithstanding such avoidance, repeal, or declaration of avoidance as aforesaid; and no such person shall, by reason of the avoidance, repeal, or declaration of avoidance of such authority, be sued, molested, or troubled for or in respect of such payment, but all such payments, in respect of the said duty, shall be allowed in account with such rightful executor or executors, administrator or administrators, and the same shall be deemed payments in the due

If administration be made void, and any duty shall have been improperly paid, it shall be repaid; but if it ought to have been paid it shall be allowed in account with the rightful executor.

course of administration, as fully and effectually as if such payments had been made by rightful executors or administrators, any law, usage or custom to the contrary notwithstanding (*d*).

Persons
swearing
falsely guilty
of perjury.

XXXVIII. That if any person or persons, upon any oath or affirmation before the said Commissioners of Inland Revenue or Commissioners of Land Tax, or any person or person authorized by this act to administer any such oath or affirmation, shall wilfully and corruptly swear, affirm, or allege any matter or thing which shall be false or untrue, with intent to defraud his Majesty of any of the said duties hereby imposed, or with intent to charge any person or persons with any greater or other duty than such person or persons ought to be charged with, every such person or persons so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to such pains and penalties as by any law now in being any person convicted of wilful and corrupt perjury is subject and liable to (*e*).

Penalty of
500*l.* for al-
tering re-
ceipts.

XXXIX. That if any person shall alter any word, letter, figure, or number in any assessment

(*d*) By an instrument purporting to be the will of S. deceased, the whole of his personalty, amounting in the net to 12,748*l.* was bequeathed to I., a stranger in blood, who was executor. I. took out probate and paid the duty of 10*l.* per cent. on the whole net amount. Afterwards T., the next of kin to S., disputed the will, on the ground that S. was not of a disposing mind; I. paid 6,000*l.* to T., and consented that the will should be revoked and administration taken out by T., who, in consideration thereof, released to I. her claim on the 12,748*l.*; T. from her nearness of blood was liable to a duty of less than 10*l.* per cent.; it was held, that under this section, I. was entitled to a return of duty not only on the 6,000*l.*, but also on the remaining 6,748*l.*, and that the duty on the whole 12,748*l.* was to be accounted for between T. and the commissioners of stamps, as duty charged on T. at the lower rate. *Reg. v. The Commissioners of Stamps*, 6 Q. B. 657.

(*e*) See 55 Geo. 3, c. 184, s. 53; *ante*, p. 66.

or receipt to be made or given in pursuance of this act, for any of the said duties, after the same shall have been signed by the officer appointed to sign the same, according to the directions of this act, or shall utter or publish as true any such altered assessment or receipt, with intent to defraud his Majesty, his heirs or successors, or any other person or persons, then and in such case every person so altering, uttering, or publishing as aforesaid shall forfeit and pay the sum of five hundred pounds.

The receipts duly stamped, as required by this act, are to be free from all other duties upon receipts for money. Sect. 41. The powers of former acts relating to stamps are extended to this act, so far as the same are applicable. Sect. 42 (f).

Legacies charged upon or payable out of the produce of real estate were not subject to the payment of duty until the 45 Geo. 3, c. 28. By the first section of that act, duties are directed to be raised and paid throughout the kingdom of Great Britain, upon all legacies, specific or pecuniary, or of any other description, whether the same be charged upon or payable out of any real or personal estate, and upon all residues or shares of personal estate left by any will or testamentary instrument, or divided by force of the Statute of Distributions, or the custom of any province or place, and upon monies, or residues or shares of monies arising from the sale of real estates, by any will or testamentary instrument directed to be sold, certain duties therein expressed, for which those

Legacies out of real estate subject to duties.

The following duties on legacies shall be paid.

(f) The six remaining sections of this act relate to matters not coming within the scope of this work.

imposed by the 55 Geo. 3, c. 184, are now substituted (g).

Duties not payable for legacies passing to the husband or wife of the deceased, or to the royal family.

III. Provided always, and be it further enacted, that nothing herein contained shall extend to charge with any of the duties hereby granted any legacy or residue, or part or share of residue, which shall be given or pass to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

What shall be deemed a legacy under this act.

IV. That every gift by any will or testamentary instrument of any person dying after the passing of this act, which, by virtue of any such will or testamentary instrument, shall have effect, or be satisfied out of the personal estate of such person so dying, or out of any personal estate which such person shall have power to dispose of, as he or she shall think fit, or which shall have been charged upon or made payable out of any real estate, or be directed to be satisfied out of any monies to arise by the sale of any real estate of the person so dying, or which such person may have the power to dispose of, whether the same shall be given by way of annuity, or in any other form, shall be deemed and taken to be a legacy within the true intent and meaning of this act: provided always, that nothing herein contained shall be construed to extend to the charging with the duties by this act granted, any specific sum or sums of money, or any share or proportion thereof charged by any marriage settlement, or deed or deeds, upon any real estate, in any case in which any such specific sum or sums, or share or proportion thereof, shall be appointed or apportioned by any will or testamentary instru-

(g) See *ante*, pp. 81, 82.

ment under any power given for that purpose by any such marriage settlement or deed or deeds.

V. That the duties hereby granted upon legacies, or charged upon or made payable out of any real estate, or out of any monies to arise by the sale of any real estate, or upon residues, or parts or shares of residues of any such monies, shall be accounted for, answered, and paid by the trustee or trustees to whom the real estate shall be devised, out of which the legacy or legacies, or share or shares of any money arising out of the sale or mortgage or other disposition of such real estate, shall be to be paid or satisfied, or if there shall be no trustees, then by the person or persons entitled to such real estate, subject to any such legacy, or by the person or persons empowered or required to pay or satisfy any such legacy; and the said duties shall be retained by the person paying or satisfying any such legacy or share of money, in like manner, and according to such rules and regulations, and under and subject to such penalties, as far as the same can be made applicable, as are contained in the act 36 Geo. 3, c. 52.

Duties on legacies charged on real estate to be paid by the trustees or the persons entitled to such estate.

The duties granted by this act are placed under the management of the Commissioners of Inland Revenue (*h*).

By sect. 7 the duties on legacies granted by this act were directed to be levied according to the provisions of 36 Geo. 3, c. 52.

A fuller and more explicit definition of a legacy is contained in the recent statute of 8 & 9 Vict. c. 76, s. 4, by which, after reciting that "under and by virtue of the several recited acts (55 Geo. 3, c. 184; 5 & 6 Vict. c. 82; 8 & 9 Vict. c. 2),

(*h*) 45 Geo. 3, c. 28, s. 6; 12 & 13 Vict. c. 1.

Certain gifts
by will or
testamentary
instrument
to be deemed
legacies.

certain duties have been granted and are now payable in Great Britain and Ireland respectively, upon legacies, and doubts have been entertained whether certain gifts by will or testamentary instrument are legacies liable to the said duties, and it is expedient to remove such doubts," it is enacted, "that from and after the passing of this act, every gift by any will or testamentary instrument of any person, which by virtue of any such will or testamentary instrument, is, or shall be payable, or shall have effect or be satisfied out of the personal or moveable estate or effects of such person or out of any personal or moveable estate or effects which such person hath had or shall have had power to dispose of or which gift is or shall be payable, or shall have effect or be satisfied out of, or is or shall be charged or rendered a burden upon the real or heritable estate of such person, or any real or heritable estate, or the rents or profits thereof, which such person hath had or shall have had any right or power to charge, burden, or affect with the payment of money, or out of or upon any monies to arise by the sale, burden, mortgage, or other disposition of any such real or heritable estate, or any part thereof, whether such gift shall be by way of annuity or in any other form, and also every gift which shall have effect as a donation *mortis causâ* (h), shall be deemed a legacy within the true intent and meaning of all the several acts granting or relating to duties on legacies in Great Britain and Ireland respectively, and shall be subject and liable to the said duties accordingly: provided always, that no sum of money, which by any marriage settlement is or shall be subjected to any limited power of appointment, to or for the

Proviso.

(h) See 36 Geo. 3, c. 52, s. 7; ante p. 88.

benefit of any person or persons therein specially named or described as the object or objects of such power, or to or for the benefit of the issue of any such person or persons, shall be liable to the said duties on legacies under the will, in which such sum is or shall be appointed or apportioned in exercise of such limited power" (i).

It may be questionable whether the proviso in this section is superseded by 16 & 17 Vict. c. 51, s. 4, so as to let in succession duty, or whether the exemption is preserved by the 18th section of that act (k).

(i) See *Attorney-General v. Marquis of Hertford*, 3 Exch. 670.

(k) Every gift which shall have effect as a donation *mortis causæ* is to be deemed a legacy within the meaning of the Legacy Acts, 36 Geo. 3, c. 52, s. 7; 8 & 9 Vict. c. 76, s. 4. Gifts of this nature are not abolished by the 7 Will. 4 & 1 Vict. c. 26. *Moore v. Darton*, 20 Law J., Ch. 626; 4 De G. & S. 517.

A *donatio mortis causæ* is a gift by delivery of the property when the owner is in peril of death or in his last sickness, to take effect only in case he shall die. This mode of disposition is for the most part confined to such chattels as may be transferred by delivery, but a bond may be the subject of a *donatio mortis causæ*, and the executor becomes a trustee for the person to whom the gift is made. *Gardner v. Parker*, 3 Madd. 184. It was doubted whether, in case the debt was secured by a mortgage as well as a bond, the delivery of the bond, as a *donatio mortis causæ*, would pass the mortgage; but it has been decided by the House of Lords, overruling the decision of the court below, that a debt secured by a mortgage may be the subject of such a disposition. Thus where a father, in contemplation of speedily approaching death, wishing to make a larger provision for a daughter than he had done by his will, delivered or caused to be delivered to her a bond and a mortgage security for a certain sum of money, and a mortgage security for another sum of money; this was held a good *donatio mortis causæ*, and the heir or executor was bound to give effect to the intent of the donor. *Duffield and another v. Hicks and others*, 1 Dow and Clark, 1; 1 Bligh N. S. 497; 1 Sim. & Stu. 243. See *Hambrooke v. Simmons*, 4 Russ. 25; 1 Wms. on Executors, 655—660; 4th ed.

W., whilst suffering under an illness from which he never recovered, and being a mortgagee of his son, gave to his

son the mortgage deed, saying, take this, but do not wrong your children, and do not mortgage your property, the father not being aware that the son had already mortgaged the estate; it was held that this was a good *donatio mortis causa* to the son alone. *Meridith v. Watson*, 17 Jur. 1063; 23 Law J., Ch. 221.

Such a gift is subject to the donor's debts in case of a deficiency of assets; *Smith v. Casen*, 1 P. Wms. 406; 2 Ves. sen. 434; *Tate v. Leithead*, 1 Kay, 658; but it does not vest in the executors, nor is it subject to the jurisdiction of the Ecclesiastical Court. *Thompson v. Hodgson*, 2 Str. 777. See 2 Ves. sen. 439; 2 Ves. jun. 120; 1 P. Wms. 441. A *donatio mortis causa* must be made in contemplation of speedy death, and to take effect only in case of death. *Tate v. Hilbert*, 2 Ves. jun. 111; *Edwards v. Jones*, 1 M. & Craig, 283.

The plaintiff being possessed of shares in a public company, when in a state of extreme sickness transferred the shares into the name of the defendant; the plaintiff having recovered from his sickness, but having subsequently become lunatic, a bill was filed in his name by the committee to have the defendant declared a trustee of the shares; it was held, that as the plaintiff had survived the sickness during which the transfer was made, the gift could not operate as a *donatio mortis causa*, and it appearing that the gift had been received by the defendant upon the distinct understanding that it was to be absolute only in the event of the death of the plaintiff, it was held that the defendant must be considered as trustee of the shares for the plaintiff. *Staniland v. Willott*, 3 Mac. & G. 664.

By the law of England, in order to transfer property by gift, there must either be a deed or an actual delivery of the thing to the donee. *Irons v. Smallpiece*, 2 B. & Ald. 551; *Hooper v. Goodwin*, 1 Swanst. 485; *Bryson v. Brownrigg*, 9 Ves. 1; *Miller v. Miller*, 3 P. Wms. 356. A *donatio mortis causa* requires an absolute and unconditional delivery of possession to the donee, or to a third person in trust for him; which possession must continue uninterrupted until the time of the donor's death. *Bunn v. Markham*, 2 Marsh. 582; 7 Taunt. 224. The obligee of a bond, five days before her death, signed a memorandum, not under seal, which was indorsed upon the bond, and which purported to be an assignment of the bond to a person to whom the bond was at the same time delivered. The court decided, that the circumstances did not constitute a *donatio mortis causa*; and the gift being incomplete, and in favour of a volunteer, the court refused its aid in carrying the gift into effect. *Edwards v. Jones*, 7 Sim. 325; 1 Mylne & C. 226.

The delivery of bank notes, *Miller v. Miller*, 3 P. Wms. 357; *Hill v. Chapman*, 2 Br. C. C. 612, promissory notes payable to bearer, exchequer notes, exchequer bills indorsed in blank, *Wookey v. Pole*, 4 B. & Ald. 1, or any security,

see *Gorgier v. Mieville*, 3 B. & C. 45, the possession of which will entitle the donee to the money specified, may be a good *donatio mortis causâ*. A cheque on a banker, though payable to bearer, cannot be delivered as such a gift, for it is revoked by the death of the donor, and the money vests in the personal representative. *Tate v. Hilbert*, 4 Br. C. C. 286. See *Lawson v. Lawson*, 1 P. Wms. 441, cited 2 Ves. jun. 111.

A cheque, however, may be so drawn as to entitle the donee to it after the drawer's death in the nature of a *donatio mortis causâ*. *Lawson v. Lawson*, 1 P. Wms. 441; see 2 Ves. jun. 121.

Testator, four days before his death, gave to his wife a cheque of £1000, which the wife immediately afterwards, by direction of the testator, exchanged for one of B.'s cheques for the same amount, which was post dated and therefore void. The testator's cheque having been paid to B. about two hours before the testator's death, B. shortly after that event gave to the widow of the testator a cheque for £1000 in exchange for that which he had previously given to her, and this second cheque was shortly afterwards paid to the widow; it was held that this transaction was in effect a good *donatio mortis causâ* from the testator to his wife. *Boutts v. Ellis*, 17 Jur. 585; 17 Beav. 121; 4 De G. M. & G. 249.

A. lent to B. £500 in October, 1843, on which occasion B. wrote and signed the following document: "Received of A. £500, to bear interest at £4 per cent." and gave it to A. In June, 1845, A. being dangerously ill gave the document to her servant, with an expression to the effect that she wished the debt to be cancelled. Ten days after this delivery A. died; it was held that this was a *donatio mortis causâ* in favour of B. *Moore v. Darton*, 20 L. J. Chanc. 626; 4 De G. & S. 517.

Money in the public funds will not pass by parol expressions of gift in contemplation of death, accompanied with delivery of the receipts for the price of the stock, unless there be an actual transfer into the donee's name. *Ward v. Turner*, 2 Ves. sen. 431.

A man in his last illness, a few days before his death, made a codicil to his will, giving certain benefits to his son-in-law A., and appointed B. his executor. On the same day the testator drew a cheque on a plain sheet of paper for £900, payable to B., to whom he owed £200, and wrote on the same sheet, A. £200, B. £200, executorship fund £500. The cheque was presented and paid before the testator's death; it was held that this was not a *donatio mortis causâ*, but a complete trust of £200 in A.'s favour, and that it was not necessary that he should have any notice of it previously to the testator's death. *Tate v. Leithead*, 1 Kay, 658; 23 L. J., Ch. 736.

CHAPTER III.

OF THE CONSTRUCTION OF THE LEGACY DUTY ACTS.

SECT. I.—*What is a Testamentary Instrument.*

SECT. II.—*Upon what Subjects Legacy Duty is charged.*

SECT. III.—*Of the Liability of Personal Property situate out of Great Britain.*

SECT. IV.—*By whom Legacy Duties are Payable.*

SECTION I.—*What is a Testamentary Instrument.*

Acts impos-
ing taxes to
be construed
strictly.

ALL acts of parliament imposing a burden on the subject must be construed strictly, and if there be on the face of them any doubt, the subject should have the benefit of that doubt (a). It is always in the power of the legislature to explain its own meaning, and to express more clearly what is obscure (b). It is a general rule with regard to penal acts, and acts which impose duties upon the subject, that courts cannot proceed upon conjecture, for statutes of that class must be construed strictly (c). It is a settled principle, that the subject ought not to be charged with legacy duty, except by words

(a) 1 Moore & Sc. 237; *Tomkins v. Ashby*, 6 B. & C. 542; *Doe v. Amos*, 2 Mann. & R. 181; *Stockton and Darlington Railway Company v. Barrett*, 11 Cl. & Fin. 590.

(b) *Hubbard v. Johnston*, 3 Taunt. 220.

(c) *Williams v. Sangar*, 10 East, 66; *Denn d. Manifold v. Diamond*, 4 B. & C. 243; *Stourbridge Canal Company v. Wheeley*, 2 B. & Ad. 797.

clearly imposing it (*d*). The legacy duty acts are to be construed strictly and in favour of the subject (*e*).

Every subject has a right so to shape the disposition of his property, as to avoid the legacy duty if possible, and there is no fraud in so doing (*f*). It appears by the preceding part of this work, that legacies of every description given by will or other testamentary instrument of or above the value of 20*l.* each (*g*), payable out of personal estate, including donations *mortis causæ* (*h*), and whether given by way of annuity or otherwise (*i*), and also legacies given subject to contingencies, are liable to the duties imposed by the stat. 55 Geo. 3, c. 184.

It has been said, that by the term testamentary instrument is meant a writing, whatever the form, or however by law it may be required to be executed, which remains dormant during the life of the person executing it, if it be revocable until his death, and if it only comes into active power at his death. Such writing stands in place of a testament, and is to be viewed as a testamentary instrument (*k*). There are many instances in which instruments executed as deeds have been allowed

What is a
testamentary
instrument.

(*d*) *Attorney-General v. Marquis of Hertford*, 14 Mees. & W. 294; *Wroughton v. Turtle*, 11 Mees. & W. 567; *Denn v. Diamond*, 6 D. & R. 329; 4 B. & C. 243.

(*e*) *Hobson v. Neale*, 17 Beav. 178.

(*f*) Per Lord Lyndhurst, 2 Cr. Mees. & Rosc. 221. See *Farguharson v. Cave*, 2 Coll. C. C. 356.

(*g*) *Ante*, p. 81.

(*h*) *Ante*, pp. 89, 126.

(*i*) *Ante*, p. 83.

(*k*) *Attorney-General v. Ramsay's Trustees*, 2 Cr. Mees. & Rosc. 229.

to be proved as wills (*l*). The primary consideration in all such cases has always been, whether the instrument was intended to operate in the lifetime of the party deceased, or to be consummated only on his death (*m*). In *Shingler v. Pemberton* (*n*), administration with a deed of assignment (reserving all the beneficial interest in the property to the grantor until his death) annexed was granted to the universal legatee in trust with the consent of the parties entitled under an intestacy. By an instrument not under seal, but executed and attested as a will, although not described as such by the deceased, she gave all her personal estate to A. B. and C. D. upon trust after her decease to get in and stand possessed of the same and subject to her just debts to pay, &c. It was held, that such paper was entitled to probate as a will of which A. B. and C. D. were to take probate as executors according to the tenor (*o*).

In *Attorney-General v. Jones* (*p*), a man conveyed by deed, for a nominal consideration, his leasehold and personal property to trustees to the use of himself for life, and after his death for several persons therein named, and reserved a power to himself of revoking or altering the trusts; he never parted with the deed, or with any of the property during his life; and by his will he confirmed, in most respects, the disposition made by

(*l*) *Masterman v. Maberly*, 2 Hagg. Ecc. Rep. 235; *The King's Proctor v. Daines*, 3 Id. 218.

(*m*) *Glynn v. Oglander*, 2 Hagg. Ecc. Rep. 428.

(*n*) 4 Id. 356.

(*o*) *In bonis Montgomery*, 10 Jur. 1063.

(*p*) 3 Price, 368.

the deed. It was held by the Court of Exchequer (*Wood, B.*, dissenting) that the two instruments should be considered as to be taken and construed together as testamentary instruments, and that the property passing under them should pass as legacies and be subject to the duty. But in *Tompson v. Browne (q)*, Sir *C. Pepys, M. R.*, decided, that an instrument declaring the trusts of stock which had been transferred into trustees' names for the benefit of the settlor for life, and after his decease for the benefit of other persons, with a power of revocation by the settlor, was not testamentary, and consequently that the legacy duty was not payable.

Property settled in the way mentioned in the two last cases by deeds taking effect after the 19th May, 1853, is made liable to succession duty (*r*).

In *Woodbridge v. Spooner (s)*, where the deceased, in her lifetime, gave to the plaintiff a promissory note to pay him or order "on demand the sum of 100*l.* for value received and his kindness to me," with a verbal engagement on the part of the plaintiff, that the note should not be demanded until after her death; it was held by the Court of King's Bench, that parol evidence could not be received to show that it was not given for valuable consideration, and that such a note could not operate by way of testamentary disposition, as it was not revocable; nor was it void, on the ground that it was a fraud on the legacy duty, that duty never having attached upon it, and there being nothing to show that the amount passed by way of *donatio mortis causâ*.

(*q*) 3 Mylne & Keen, 32.

(*r*) 16 & 17 Vict. c. 51, ss. 1, 2, 7.

(*s*) 3 B. & Ald. 233; *S. C.* 1 Chitty, R. 661.

In *Fletcher v. Fletcher* (t), E. Fletcher executed a deed of covenant with trustees, that in case his natural sons, or either of them, should survive him, his executors or administrators should pay 60,000*l.* to the trustees on certain trusts for the benefit of the sons. He did not communicate this deed either to the trustees or to the sons, and kept it in his own possession until his death. The deed was held not to be testamentary, but to give to the son a valid claim against the assets in equity, the trustees having refused to sue (u).

It must be borne in mind, that instruments in whatever form executed on or after the 1st January, 1838, cannot be established as wills unless they be signed by the party, and attested by two witnesses in the manner prescribed by 7 Will. 4 & 1 Vict. c. 26, s. 9, and the 15 & 16 Vict. c. 24. Among the papers of a testator were found two letters, sealed and directed for "S. G., my late servant." S. G. had been in the service of the testator as housekeeper for some years before his death, but had left him for some time previously to that event. These letters contained promissory notes for large sums of money, and one of these letters stated that the testator enclosed 200*l.* as a mark of respect, and the other letter stated that the enclosed was for her long and faithful services. S. G. applied to the executors for payment of the notes, and upon seeing the notes they paid her a portion of the amount, and promised to pay the remainder, but afterwards refused to do so; it was held, that an action was not maintainable by S. G. upon the

(t) 4 Hare, 67.

(u) See *Savage v. Lane*, 6 Hare, 31; 16 & 17 Vict. c. 51, ss. 1, 2, 17.

notes, which were in effect a legacy and an informal one, in not being duly attested as required by the act 7 Will. 4 & 1 Vict. c. 26, and therefore void, and that the action was not maintainable on the account stated, inasmuch as the promise of the executors was made on a supposed debt, which in fact was not due (*x*).

A testatrix by her will gave the whole of her property to her sister, but the will being improperly witnessed, the gift was void. Before her death, the testatrix had transferred a sum of stock in the Bank of England into the names of herself and her sister, in order, as she declared, to save her sister the payment of legacy duty; it was held, that the stock so transferred formed no part of the property of the testatrix, but that it belonged to her sister as the survivor of the two (*y*).



SECTION II.—*Upon what Subjects the Legacy Duty is charged.*

THE term legacy means any legacy payable out of the personal estate of the deceased, and extends not only to a legacy properly payable out of the personal estate, but a legacy payable out of any property which the party had the power of disposing of by will. Thus, where upon the marriage of a lady 20,000*l.* was vested in trustees upon trust, as far as related to the income arising from that money, to her father for life and to her husband for life, and in the event of her surviving, to her for life, and in the event of her having no children,

Legacies given in execution of powers of appointment.

(*x*) *Gough v. Findon*, 7 Exch. 48; 21 L. J., Exch. 58.

(*y*) *Deacon v. Colquhoun*, 2 Drew. 21; 23 L. J., Ch. 16; 2 Eq. R. 319.

with a power to her to appoint that sum of money by will; the result was, she had no children, and she made a testamentary appointment conformably to the authority thus given; it was held, considering all the acts together imposing duties upon legacies, that the money taken under such testamentary appointment was subject to the legacy duty imposed by 55 Geo. 3, c. 184 (z).

What is a
general
power of
appointment.

J. R., by his will, after directing his real estates to be sold and converted into personalty, gave the general residue of his personal estate to his daughters J. A. P., J. R., J. S. and J. G. his executrix and executors, upon trust to permit his said daughter to receive the rents and dividends thereof during her life, and after her decease upon trust for such person or persons (other than except J. W. and his relations M. H., and his relations and the relations of the late husband of the testator's said daughter and every of them) in such parts, shares and proportions, and in such manner and form, as the said J. A. P., whether sole or covert, should by will appoint, and in default of appointment in trust for the next of kin of D. R. And the testator declared, that in case his said daughter should intermarry with the said J. W. or any of his relations, or should reside with or receive visits from him or them, the bequests in her power should utterly cease. After the testator's death, the said J. A. P. married G. E. P., and the interest and dividends of the testator's residuary estate were regularly paid to her until her death. Previously to her death she made a will, and thereby in exercise of the power under her father's will she gave

(z) *In re Cholmondeley*, 1 Cr. & Mees. 149; S. C. 4 Tyrw. 10. See stat. 36 Geo. 3, c. 52, s. 7; 45 Geo. 3, c. 28, s. 4, ante, p. 124.

10,000*l.* consols to the descendants of the before-named D. R., and gave all the rest of her late father's property to various persons, strangers in blood to both her father and herself; D. R. was the son of a brother of J. R. the testator. It was held, that on the death of J. A. P., a duty of one per cent. became payable in respect of the bequest in the will of J. R., of the residue of his estate and effects to J. A. P., after allowing any duty already paid in respect thereof; and that legacy duty was payable in respect of the bequests contained in the will of J. A. P. at the same rate at which it would have been payable if they had been mere legacies given by her payable out of her own personal estate. Lord Abinger, C. B., in giving judgment, observed, "this question, so far as regards the legacy duty, appears to us to depend entirely on the construction to be put upon the 18th section of the 36 Geo. 3, c. 52, which regulates the duty in cases where legacies are given subject to power of appointment. It will be observed, that the legislature in this section refers to two sorts of powers of appointment only; *first*, powers of appointment to or for the benefit of any person or persons specially named or described as objects of the power; and *secondly*, general and absolute powers of appointment. It is plain, from the whole context of the act that these two classes of powers were meant to include all possible cases, and the question therefore is, under which class does the power now under consideration range itself. It does not literally come within either description. It is not a power to appoint for the benefit of persons *specially named or described*, for no persons are either named or described. It is not a general and absolute power,

because there are certain persons and their families in whose favour the power cannot be executed. In applying the provisions of the act to a case like the present some violence therefore must be done to the language of the clause in question, and after much consideration, we think that there is less difficulty in treating this as a general and absolute power than as a power to appoint for the benefit of persons specially named or described. The power is one which might have been exercised by Mrs. Platt, solely for her own benefit. She might have contracted debts to any amount in her lifetime, and then by her will have directed the fund in question to be applied in their discharge; nay further, if she had died indebted, and had appointed the fund to strangers, the appointees could only have taken subject to her debts, for the rule of equity which subjects a fund so appointed to the debts of the appointor does not appear to be affected by the circumstance that there are certain persons to whom the fund could not have been given. The question in such cases, is not whether there are persons to whom the fund could not have been given, but whether the party executing the power might have executed it for his own benefit, i. e. in payment of his own debts, and where that is the case all appointees are held as volunteers, and as being in no better situation than ordinary legatees taking by the bounty of the appointor and subject to his debts. See the language of Lord *Hardwicke* in *Lord Townsend v. Windham* (a). Inasmuch, therefore, as the power given to Mrs. Platt is one which she might have exercised for her own benefit, and under an exercise of which no one can claim any

(a) 2 Ves. sen. 9, 10.

right, except subject to her debts, and as it is impossible without manifest absurdity to treat the persons in whose favour she might appoint, (namely, all mankind except three families,) as being persons specially named or described, we think the power must be treated according to the only other alternative in the 18th section as a general and absolute power. The same reasons which induced us to put this construction on the 18th section also appeared to us to establish that, according to the true construction of the 7th section, the property subject to the power was personal estate, which Mrs. Platt had power to dispose of as she should think fit" (b). This decision was affirmed by the Master of the Rolls (c), and ultimately by the House of Lords (d).

The profits arising from tolls received under a grant of a lighthouse are in the nature of realty, and a devise of them is not liable to legacy duty (e).

The legacy duty is expressly charged on monies to arise from the sale, mortgage or other disposition of real estate by any will or testamentary instrument directed to be sold, mortgaged or otherwise disposed of (f). The question has occurred in several cases whether, taking the will altogether, there is a *direction* to the trustees to convert the estate into money, or whether it is really left in their discretion not to convert it into money. If the will

(b) *Platt v. Routh*, 6 Mees. & W. 756. See pp. 788—790.

(c) 3 Beav. 257.

(d) 10 Cl. & Fin. 257. See post, 16 & 17 Vict. c. 51, ss. 4, 33, as to the liability to succession duty of property taken under a *general* or a *limited* power of appointment.

(e) *Attorney-General v. Jones*, 1 Hall & T. 493; 1 Mac. & G. 574.

(f) 55 Geo. 3, c. 184, Sched. part iii; ante, p. 82.

Tolls of
lighthouse.

Duty on
monies arising from the
sale of real
estate.

amounts to a positive direction to sell, the legacy duty will attach, although in fact no sale has taken place (*g*). Thus, where real property was devised to trustees to be sold and the proceeds to be deemed part of the residue of the testator's estate or go in aid, if necessary, of the rest of his property in discharge of the pecuniary legacies given by his will, or any codicil thereto; the property was held to be liable to the legacy duty, although the residuary legatee took it in *statu quo*, and the trustees did not convert it into money by sale, according to the directions of the will, there having been no claim to render such sale necessary (*h*).

A testator devised real estates to trustees for the benefit of several parties for life, and after their deaths to be distributed amongst their children, &c. and a power was given, notwithstanding the trusts thereinbefore contained touching the freehold and copyhold estates, for the trustees for the time being to sell the same or any part thereof, as shall appear most expedient to the trustees for the time being towards effecting the arrangement of the testator's property and affairs. The money to arise by such sale was directed to be invested upon good or real securities at interest, or applied upon such trusts as were thereinbefore declared concerning the property so sold. On a question whether monies arising from part of the testator's estates which were sold because they were suitable for building, and of other parts which were sold under a decree in equity, were chargeable with legacy duty under 55 Geo. 3, c. 184, as real estate *directed* to be sold; it was held, that the sale under such circumstances was not a sale of

(*g*) *Williamson v. Advocate-General*, 10 Cl. & Fin. 1.

(*h*) *Attorney-General v. Holford*, 1 Price, 426.

property *directed* to be sold by the will of the testator within the meaning of the act, and therefore that the proceeds of the sale were not liable to the legacy duty (i).

This case must now be considered as overruled as an authority for the general proposition that duty does not attach in any case where a sale is made under a *discretion* given to the trustees to sell and distribute the proceeds, but without any positive direction imposing upon them the obligation of selling. If the will permits the executors to sell real estate, and they sell it, the legacy duty is payable in the same way as it would have been if there had been an express direction to sell the real estate (j). A testator devised to trustees all his real and personal estate upon trust at such times as they might think expedient to sell, convey or otherwise convert into money the same or any part thereof, and after several specific bequests, directed all the residue to be invested as it should be realized, and be divided amongst his children in certain specified proportions. The trustees were to have the discretion of deferring any sale so long as they might think fit, and of causing any part or parts of the testator's real or personal estates to be valued instead of being sold, and of allotting such parts to any or either of the said testator's children, to the amount of the valuation, as a part of his or her proportion of the said testator's residuary estate, but to be considered as personal estate. The trustees in the exercise of this power having caused certain portions of the real estate to be valued and allotted to one of the testator's children; it was held, that no duty in re-

(i) *In re Evans*, 2 Cr. Mees. & Rosc. 206.

(j) *Per Parke, B., Attorney-General v. Metcalfe*, 6 Exch. 43.

spect thereof was payable, for taking the whole will together, a discretion in certain cases was given to the trustees to treat it as land, and the will not containing a positive direction to sell the land. But it was held, that as to such part of the real estate as had been sold under the will the legacy duty was payable (*k*).

In an information for legacy duty a special verdict stated that the testator devised his real estates in trust to pay the rents to his brothers and sister, and the survivor of them for their lives, and after the death of the survivor to convey the estates to all his nephews and nieces equally, as nearly as they could make partition, and in the meantime to pay the rents to them. That for the purpose of such partition it should be lawful for the trustees to sell all or any part of the estates, and that they should stand possessed of the money arising from such sale upon the same trusts as were declared concerning the residue of the personal estate, namely, for his brothers and sisters and the survivor of them for life, and then for his nephews and nieces. The testator died in 1819, leaving his sister and two brothers him surviving, the last of whom died in 1832. He also left ten nephews and nieces. In 1833, and at various times afterwards, the trustees sold the real estates for 9,064*l.*, with the view of dividing the proceeds of the sale among the nephews and nieces. It was held, that legacy duty was payable on the above sum, it being within the meaning of the 55 Geo. 3, c. 184, sched., part 3, tit. Legacies, money arising from real estates directed to be sold (*l*).

(*k*) *Attorney-General v. Mangles*, 5 Mees. & W. 120; 3 Jur. 981.

(*l*) *Attorney-General v. Simcox*, 1 Exch. 749; 18 L. J., Exch. 61.

Lord E. and his son, by a deed of 1800, conveyed to trustees certain real estates to the use (subject to a term to secure a rent charge of 2,000*l.* to the son during their joint lives) of Lord E. for life, with remainder to the son for life, with remainder to the first and other sons of the latter in tail, with remainders over, with a joint power to revoke such uses and declare others. By a deed of 1814 they executed the power. The deed recited, that Lord E. was not possessed of personal estate sufficient in the event of his death to discharge all the debts he might probably owe, and such legacies as he might bequeath, without a sale of his family and other pictures, plate and other articles of a similar nature, and that therefore the son had agreed for the accommodation of Lord E. to join him in charging the said lands with 50,000*l.*, to be raised after the death of Lord E., and applied in augmentation of his personal estate, and that Lord E. had agreed in charging the estates with 2,000*l.*, to be raised after his death, for the use of his son, and that it was agreed that the pictures, &c. should be assigned to trustees. The deed then contained a revocation of the former uses, and it was thereby directed that the said estates should be and remain to the use of the trustees in trust (*inter alia*) within six months after the death of Lord E. to raise by sale such sum not exceeding 50,000*l.* as should be necessary to make good the deficiency of the personal estate of Lord E. in payment of his debts and legacies and in aid of the same. The estates were then settled as before to the use of Lord E. for life, with remainder to his son and his issue, with remainder in undivided third parts to Lord E.'s three daughters, Lady S., Lady C. and another daughter for their lives respectively,

Legacies payable out of a fund to be raised from the sale of real estates under a previous deed.

with remainder to their sons in tail; and Lord E. assigned all his pictures, furniture, &c. to trustees to go for the most part as heir-looms. Lord E., by his will, gave amongst other legacies to his executors, two sums, 10,000*l.* each, in trust for his daughter Lady S. (the wife of Lord S.), the same to be subject to her appointment. The son died without issue in the lifetime of his father, whose personal estate after his death was not sufficient for the payment of his debts and legacies without a part of the said sum of 50,000*l.*, out of which it was necessary to provide for payment of the legacies of Lady S. Common recoveries were suffered, and the estates tail in the lands thereby barred, and partition was made, one share being limited to such uses as Lady S. and her husband, and their eldest son, or the survivors of them, should jointly appoint, and it was agreed that instead of raising the legacies they should be charged upon the estates in proper proportions. The sums apportioned to the lands taken by the other daughters and their sons were at once paid to the trustees, leaving a large amount to be charged, and which was charged on Lady S.'s own share of the estates so limited as aforesaid, the same being secured by means of a term created for the purpose and vested in the trustees. Lady S., by virtue of the power in her father's will, appointed by deed the sums received by the trustees on account of her legacies to her husband, and directed that the residue should be paid to such persons as she should thereafter appoint, and in default of appointment, then to her husband, and she died without having made any further appointment. Lord S. and his son, by deed, conveyed the estate, subject to the said term, to the use of themselves

and the survivor in fee. On the death of Lord S. his son became seised of the said estates, and, as residuary legatee of his father, entitled to the residue of the legacies charged thereon, and he called upon the trustees to surrender the estate in lieu of selling it to realize the amount charged upon it. This was done, and thereby the demand of the trustees became extinguished, and that extinguishment took place before the 8 & 9 Vict. c. 76:—It was held, that legacy duty was payable upon all the legacies under the 55 Geo. 3, c. 184; that the 50,000*l.* stipulated for by the testator as a fund for the payment of his debts and legacies was personal estate, and that the fact that the legacies and the land upon which the legacies were charged had devolved upon the same person, whereby it became unnecessary for the trustees to realize the money by the sale of the land, was equivalent to a satisfaction of the legacies within the meaning of the schedule, part 3, of that act (*m*). *Parke, B.*, observed,—“The transaction is equivalent to this: Lord Eardley being possessed of valuable ornamental furniture transferred it to his son for a mortgage of the estate by the latter. That being so, that mortgage was personal property, and all the legacies payable by means of that mortgage would be payable out of personal estate. This charge of 50,000*l.*, or so much of that sum as would be required to satisfy the legacies left by him under his will, was meant to be personal estate, and always was personal estate, and consequently it fell within the 55 Geo. 3, c. 184, and the only question is, whether that was paid or satisfied.

(*m*) *Attorney-General v. Metcalfe*, 6 Exch. 26; 20 Law J., Exch., 329.

Part of it had been paid or satisfied out of what was clearly the personal estate of the testator, irrespective of that mortgage with respect to which there was no question. The remainder was satisfied by a compromise with the person who was entitled to the real estate, and had paid off the mortgage. It came therefore to just the same thing, and the duty attached (n)."

Mortgage
debt not
merged.

A. made a mortgage in fee to secure a sum lent to him by the trustees of his marriage settlement. On his death his daughter became entitled to the equity of redemption of the mortgaged estate, as his heiress and under his marriage settlement, to the mortgage money. The trustees then conveyed the estate to her, subject expressly to the equity of redemption, and did not release her father's covenant for payment of the money. Afterwards she granted an annuity to M., and as a security for it conveyed the estate and assigned the money to a trustee for him. By her will she devised the estate, but did not dispose of her personal estate:—It was held, that the money was subject to probate and legacy duty (o).

Produce of
estates sold
under powers
to be again
invested in
land.

A testator devised to trustees his real estate in Westmoreland, upon trust out of the rents to pay M. an annuity of 50*l.*, and upon further trust to pay to his grandson the rents for his life, and after his decease upon trust for his children, and in default of such issue the testator gave all his estates to his nephews, their heirs and assigns, for ever, subject to the said annuity, provided that it should be lawful for the trustees, if thought beneficial to do so, to sell his real estate in Westmoreland; and

(n) *Attorney-General v. Metcalfe*, 6 Exch. 45.

(o) *Swabey v. Swabey*, 15 Sim. 502.

the testator directed that the purchase-money should be invested by the trustees in the purchase or on mortgage of other lands in the counties of Somerset or Devon, which lands should be settled to the same uses; and until the money arising from such sale should be invested, the trustees should place it in the public funds or on government or real securities in England. The testator died, leaving his grandson, then an infant, and his nephews, him surviving. The trustees filed a bill in Chancery to establish the trusts of the will and to take the usual accounts, and a decree was made accordingly. The master, by his report, found that there were no debts due from the testator. Subsequently the trustees presented a petition in the cause, stating that they were desirous that the estate in Westmoreland should be sold, and the proceeds laid out in the purchase of other lands, as directed by the will, and praying that it might be referred to the master to inquire whether it would be for the benefit of the infant grandson that the estate should be sold. An order having been made the master by his report found that it would be beneficial to sell the estate, and in pursuance of an order of the court it was sold and the proceeds laid out in the purchase of bank annuities. The grandson afterwards died without issue, and the interest of the nephews expectant on his decease vested in M. By a decree in the cause, legacies and costs were ordered to be paid, and the residue of the bank annuities transferred to M.:—It was held, that the fund was not subject to legacy duty, since the person entitled to it did not take it as personalty under the will, but in consequence of his election to receive a gift of real estate in the

shape of money (p). *Alderson, B.*, said, "That which governs the question is, what the party takes under the will. Does the testator leave him land or does he leave him money? If a testator leaving land directs it to be turned into money and the money to be paid over to the legatee, it has been reasonably held, that that is in truth a bequest of money and not of land. So again, by another step in the same direction, it has been held, that if the testator leaves land to trustees with a discretionary power of turning it into money and handing it over in the shape of money to the legatee, if the trustees act under that power legacy duty is payable, because their exercise of the power is equivalent to an original direction by the testator. Here the trustees have no power to turn the land into money and hand over the money to the legatee, but only to sell the land and convert it into other land or into a mortgage, and that is to depend upon their discretion. Then, how do they exercise that discretion? They apply to the Court of Chancery for leave to turn the land into money for the purpose of buying therewith other land, and of handing over not the money but the other land to the devisee. It is the same as if the testator had directed them to transfer the other land to the devisee, in which case it is clear that the crown would not have been entitled to legacy duty; that is in substance the case here: they having land in the intermediate stage, viz., in money, certain events happen which put it in the power of the devisee to do what he pleases with the money, and then his will, not the testator's, causes

(p) *Miles v. Jennings*, 8 Exch. 830.

the money to be handed over to him. The crown has no claim except where the money is handed over to the party by force of the will of the testator. Here the money is handed over under an arrangement, in which the will of the devisee and the will of the testator co-operate (q)."

A testator devised to trustees his real estates upon trust to raise a sufficient sum to pay debts and legacies, and upon further trust to pay his two daughters annuities of 300*l.* each ; and he directed that, subject to those trusts, the trustees should stand seised of the real estate in trust for his brother for life, and after his decease in trust for his children, provided that it should be lawful for the trustees, with the consent of the testator's brother during his life, and after his decease with the consent of the persons beneficially entitled, to sell the whole or any part of the real estate, and out of the purchase-money invest so much as would be sufficient to pay the annuities of 300*l.* The testator died leaving his two daughters, his brother and seven children of his brother's surviving. The trustees sold a part of the real estate, and paid the debts and legacies, when it was found that the rents of the residue of the real estate were not sufficient to pay the annuities, whereupon a bill in Chancery was filed by the testator's brother and his children against the trustees and the testator's daughters ; and in pursuance of an order of the court, the residue of the real estates was sold for 20,000*l.*, part of the purchase-money invested, and the interest thereof applied in payment of the annuities. The testator's daughters and brothers having afterwards died, the brother's children became entitled to the 20,000*l.*

Real estate sold under a decree of the Court of Chancery.

when the Crown claimed legacy duty on that sum:— It was held, that if the Court of Chancery acted on their general power of ordering the sale of the real estate to satisfy charges, legacy duty was not payable; but if the court acted on the clause in the will, and in consequence of the will containing that clause, compelled the trustees to execute the power and exercise the discretion thereby given to them by the testator, then legacy duty was payable, inasmuch as in that case the sale of the real estate was substantially by the direction of the testator himself (*r*). The Master of the Rolls, acting upon the certificate of the Court of Exchequer, which was returned in the alternative, declared that no legacy duty was payable on the *corpus* of the estate (*s*).

A testator, after devising his real estate to trustees upon trust for certain persons in tail male, empowered his trustees after his death to sell or exchange such real estate, and to invest the monies arising from such sale in the purchase of other real estate to be settled and conveyed upon the same trusts; the will also empowered the trustees, until such purchases were made, to invest the produce of the sale in the funds or on mortgage of real estate. The trustees having sold part of the estate under this power, invested the produce in the funds:—It was held, that the legacy duty was not payable in respect of the money so invested (*t*).

Real property directed to be sold to be charged as personalty.

The interest of any successor in monies to arise from the sale of real property under any trust for the sale thereof, so far as the same shall not be chargeable with duty under the Legacy Duty Acts,

(*r*) *Hobson v. Neale*, 8 Exch. 368; 17 Beav. 178.

(*s*) *Hobson v. Neale*, 17 Beav. 178. See *ante*, pp. 139—142.

(*t*) *Heale v. Knight*, 22 L. J., Exch., 358.

shall be deemed to be personal property chargeable with duty under the Succession Duty Act, 1853; provided that where such monies shall be subject to any trust for the re-investment thereof in the purchase of other real property, to which the successor would not be absolutely entitled, such monies shall be deemed to be real property, and for the purpose of that act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall then be the real property subject to the trust or direction for sale, or any property purchased in substitution for it, or any intermediate investment of the produce of the sale of the original property (u).

The interest of any successor in personal property, subject to any trust for the investment thereof in the purchase of real property to which the successor would be absolutely entitled, shall, so far as the same shall not be chargeable with duty under the Legacy Duty Acts, be chargeable with duty under the Succession Duty Act, 1853, as personal property; and personal property subject to any trust for the investment thereof in the purchase of real property to which the successor would not be absolutely entitled shall, so far as the same shall not be chargeable with duty under the Legacy Duty Acts, be chargeable with duty under that act as real property; and for the purposes of that act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or

Personal property to be invested in real property how to be charged.

(u) 16 & 17 Vict. c. 51, s. 29.

for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall be the real property directed to be purchased, or any intermediate investment of the personal property directed to be invested in such purchase(v).

Under the acts 36 Geo. 3, c. 52, and 45 Geo. 3, c. 28, no legacy duty is payable on the value of personal estate given up by one legatee to another under the doctrine of election, but where the testator devises his own real estate to A., and bequeaths A.'s personal estate to B., the legacy duty is payable on the value of the personal estates so charged on the testator's real estate (v).

Rent-charge
annuity.

A testator gave a life estate in his freehold property to C., and after her death and in the event of her husband surviving her, he gave him an annuity or yearly rent-charge of 500*l.* a-year, payable quarterly out of his real estate, with a landlord's power of distress and entry; and subject to that annuity he gave his real estate and monies to Randle Jackson and William Jackson, Randle Jackson having an estate in fee, and William Jackson an estate for life; the question was, whether the annuity of 500*l.* a-year thus given to the husband of C. was to be considered a legacy within the meaning of the act of parliament imposing duties on legacies; it was contended, on behalf of the defendant, that the subject-matter was in fact real property, that it was a rent-charge, *i. e.* a freehold interest in the party in whose favour it was granted; that it was as much real property, as far as related to

(v) 16 & 17 Vict. c. 51, s. 30: See 36 Geo. 3, c. 52, s. 19, *ante*, p. 100.

(w) *Laurie v. Clutton*, 15 Beav. 131.

the 500*l.* per annum, as the estate out of which it issued, and that it was not the intention of the legislature, in imposing the legacy duty, to impose any duty whatever upon real property. But the Court of Exchequer held, that the annuity in question fell precisely within the terms made use of by the legislature with respect to gifts by way of annuity, and was therefore liable to the duty (*x*).

A testator devised certain estates to the use of trustees for the term of 500 years, and subject thereto, to the use of other trustees, to preserve contingent remainders, with remainder to the first and other sons of C. S. (then an infant), with divers remainders over, and he directed that the trustees of the term should, after paying certain annuities, apply so much of the rents and profits of the estates, as they should think fit (not exceeding in any one year a certain amount), in aid of another fund to the maintenance and education of C. S. until she should attain twenty-one or marry, and that they should accumulate the surplus rents and profits for the benefit of C. S. when she should attain twenty-one or marry, and if she should die under twenty-one and unmarried, then for the benefit of the parties entitled under the subsequent limitations of the estates, and that upon her attaining twenty-one or marrying, they should, during her lifetime, pay the surplus rents, after payment of the annuities, to her for her separate use. It was held, that the sums annually applied out of the rents and profits under the trusts of the term to the main-

Annual sums
for main-
tenance of
infants
during mino-
rity.

(*x*) *Attorney-General v. Jackson*, 2 Cr. & Jerv. 101. See also *Stow v. Davenport*, 5 B. & Adol. 359; 2 Nev. & M. 805, in which case the Court of King's Bench recognized and acted on this decision.

tenance and education of C. S. until her marriage, were not liable to legacy duty. Lord *Lyndhurst*, C., observed, "The effect of the will is to give the petitioner a life estate subject to certain charges, and coupled with a direction to the trustees to apply a limited portion of the rents to her maintenance and education until she attain the age of twenty-one, or marry. The direction merely does what this court would have done without it. The petitioner would have been entitled, at all events, to maintenance out of the rents and profits of the real estates. It is true, the trustees have a discretion to allow a portion of the rents not exceeding a certain amount for that purpose; but still the estate out of which the allowance is to come is her estate. Nothing but what is a charge upon the estate of another person will come within the statute. It is very important that, as far as possible, we should avoid refinements in the construction of this act. I am of opinion that no legacy duty is payable, and the stop must be taken off" (y).

A testator made his will in the following terms: "I give and bequeath all my property, of whatsoever description, to my wife for the maintenance of herself and our children (naming seven in number), and I constitute my said wife to be sole executrix of this my will." It was held, that a trust was thereby constituted for the benefit of the children, and that the executrix was bound to deliver an account to the Legacy Duty Office (z). The court distinguished this case from *Thorp v. Owen* (a), where the will showed that it was the testator's

(y) *Shirley v. Earl Ferrers*, 1 Phill. C. C. 167.

(z) *In re Harris*, 7 Exch. 344.

(a) 2 Hare, 607.

intention that the wife should take the property absolutely, and the subsequent parts of the will showed that the maintenance of the children was merely the motive (a).

A. devises real estates to B. and C. in trust to convey to the use of D. for life, remainder to B. and C. for D.'s life, to preserve contingent remainders, remainder to the use that E. shall take out of the premises such annuity or yearly rent-charge not exceeding 500*l.* per annum for her life as D. shall appoint, such annuity to be paid to her clear of all taxes and deductions whatsoever; and in default of issue of D., the testator devised the premises charged with the annuity or rent-charge to F. D. appoints that the annuity shall be the full annuity of 500*l.*; D. dies, F. enters and is compelled by exchequer process to pay the legacy duty on the annuity:—It was held, first, that the annuity was chargeable with legacy duty; secondly, that the legacy duty is a "tax" within the words of the devise; and thirdly, that F. takes the land subject to the payment of the legacy and legacy duty, and cannot call upon E. for repayment of the legacy duty (b).

Rent-charge
appointed
under
power.

Where a power is given by will of limiting a rent-charge in favour of the wife of a party, to be executed either by deed or will, and such power is executed by a will, in legal operation the charge is considered to be made by the original will, and not by the subsequent will by which the power is executed and the charge created. A testator devised real estate to W. T. for life, with remainder to his

(a) See *Crockett v. Crockett*, 1 Hare, 451; 2 Phill. C. C. 553; *Woods v. Woods*, 1 Myl. & Cr. 401; *Pope v. Pope*, 10 Sim. 1; *Longmore v. Elcum*, 2 Y. & C., C. C., 363.

(b) *Stow v. Davenport*, 2 Nev. & M. 805; 5 B. & Adol. 359.

first and other sons in tail, with remainder to T. P. for life, remainder to his first and other sons in tail, remainder to G. P. for life, with remainders over, and gave a power to the several persons who, by virtue of the limitations in the will, should be in actual possession of the estates, by deed or will to appoint to any woman or women they should marry, by way of jointure, rent-charges not exceeding 750*l.* per annum for life, to be issuing out of and chargeable upon the devised estates, clear of all taxes and deductions whatsoever; W. T. died without issue, and T. P. entered into possession of the estates, and by his will charged them with 750*l.* per annum by way of jointure to his wife under the power, and died without issue male, whereupon G. P. entered into possession:—It was held on error, brought on the judgment of the Court of Exchequer, that G. P. was chargeable with legacy duty after the rate of 10*l.* per cent. on the value of the rent-charge of 750*l.* per annum, affirming the judgment of the court below (c).

In the above case, Lord *Denman*, C. J., intimated his opinion that charges of this nature would be exempt if originally made by deed under the proviso contained in the 45 Geo. 3, c. 28, s. 4, which opinion was subsequently adopted in the following case. A., by deed dated in 1802, conveyed certain lands to trustees, to the use of himself for life, remainder to B., his son, for life, with remainders over. The deed contained a proviso that it should be lawful for B., by his last will, to limit and appoint to the use of himself, or any other person or persons, any annual sum or sums of money,

(c) *Pickard v. Attorney-General*, 6 Mee. & W. 348; 3 Mee. & W. 552.

not exceeding the yearly sum of 700*l.* to be charged upon and payable out of the lands included in the deed, to commence from the death of B., and to be either perpetual or in fee, or payable for such times and in such manner in all respects as B. should think fit. B., by his will, by virtue of this power, appointed an annuity of 700*l.* a-year to C. for her life, charged upon and payable out of the said land:—It was held, that legacy duty was not payable in respect of such annuity (*d*).

In consequence of the last decision a more extended definition of a legacy was given by the stat. 8 & 9 Vict. c. 76, s. 4 (*e*), providing in substance that all gifts by will, if payable out of real estate, shall be deemed legacies, unless they come within the proviso in that act. A., by deed dated in 1802, conveyed certain lands to trustees to the use of himself for life, remainder to B. his son for life, remainder to the defendant, his grandson, for life, with remainders over. The deed provided that it should be lawful for the defendant and the survivor of A. and B. to declare any new uses of the lands. A. died in June, 1822, and by indenture of appointment of October, 1822, B. and the defendant declared that it should be lawful for B. by deed or will to charge the lands with the payment of any sum not exceeding 47,000*l.* In 1823, B. by his will charged the lands with payment to his executors of 47,000*l.*, to be applied in payment of his debts, &c. and the residue in trust for the defendant. B. died in 1842, and in 1847 his executors raised 11,259*l.* 11*s.* 8*d.*, part of the 47,000*l.*, and paid it

(*d*) *Attorney-General v. Marquis of Hertford*, 14 Mee. & W. 284.

(*e*) *Ante*, p. 126.

to the defendant, the debts having been previously paid:—It was held, that this was a gift by will within the 8 & 9 Vict. c. 76, s. 4(e), although it operated originally by virtue of a power, and that the legacy duty was chargeable on the sum of 11,250*l.* 11*s.* 8*d.* it not having been paid to the defendant until after that act came into operation, notwithstanding the testator died before (f).

Appointment
of rent-
charge in
lieu of
dower.

Where a testator, by his will, gives power to A. B. to appoint to his wife an annuity chargeable upon land of the testator, if A. B. shall think fit, and A. B. makes the appointment, but with the condition that the wife shall take it on relinquishing her dower, legacy duty is payable upon such annuity under the stat. 45 Geo. 3, c. 28. Where such condition is annexed by the original testator himself, it was questioned whether duty is payable either upon the whole annuity or upon the amount of it after deducting the value of the dower. A. B., by his will, made in 1821, after disposing of his property in various ways, and after giving directions as to the purchase of estates in the county of S. with the proceeds of estate in the counties of E. and K., directed a deed of settlement of his estates to be executed, and that there should be inserted in such settlement a power to the tenant for life, "and entitled to the rents and profits of the estates to be settled, by deed or will duly executed to charge all or any part of such estates with any annual sum or sums of money not exceeding one-third part of the annual value thereof, unto or for the benefit of any woman or women with whom he or they might respectively happen to intermarry, or with whom

(e) *Ante*, p. 126.

(f) *Attorney-General v. Marquis of Hertford*, 3 Exch. 670.

he or they might have intermarried, as and for and in the nature of a jointure." Upon the death of A. B., in 1822, C. D. succeeded to the estates; and by his will, in execution of that power and of all other powers given, charged all the estates he had to charge "with the payment of the annual sum of 2,000*l.* free and clear from taxes, and without any deduction whatever, unto and for the benefit of his wife, Lady H., during the term of her natural life; the said yearly rent or annual sum of 2,000*l.* to be in the nature of and in full for the jointure of his said wife, and to be in lieu, bar and satisfaction of and for her dower, or thirds at common law, or by or on account of customary freebench, which she could and would or otherwise might have or claim of, in or out of the freehold, copyhold or customary manors" of C. D. This will also provided, that in case C. D. was not authorized and empowered by the will of A. B. to charge the estates thereby devised and directed to be purchased and settled respectively as aforesaid, with the payment of so large an annual sum as 2,000*l.* by way of jointure, the deficiency, if any, should be a charge upon, and the said C. D. thereby expressly made liable to and charged, such part and parts of his real estates by his will devised as should not be sold under the trusts in his will contained as thereafter mentioned, with the payment of such deficiency. Upon the death of C. D. the defendant succeeded to the estates as heir-at-law, and entered into possession and receipt of the rents and profits, and several payments were made of the annuity to Lady H., the wife of C. D., who was a stranger in blood to A. B. It was held, that legacy duty was payable upon the whole of the annuity, and that the defendant, either as trustee or

the person in possession, was the party bound to pay it (g). *Parke, B.*, in giving judgment, observed,—“A power is given by the will of the first Lord Henniker to the second Lord Henniker to appoint 2,000*l.* to his wife if he thinks fit. He appoints it to the wife, and by the same instrument by which he appoints it he imposes upon her the condition of relinquishing her dower and thirds, and her freebench upon all the copyhold estates. The question is, whether that is to be considered and treated as a purchase of the dower and thirds and freebench, or whether it is merely a condition annexed to the receipt of the legacy. For that condition, if she accepts the legacy, makes no difference; she is still the recipient of the legacy. And we are of opinion that this is nothing more than the appointment of a legacy upon a condition. She knows, by the instrument, by which the legacy is appointed, that is a legacy, and if she takes it she takes it as the gift of the original testator; and whether the person exercising the power of appointment annexes a condition to that gift or not, does not affect the question, for it is still the gift of the testator, and is taken under the will of the testator, and therefore as such becomes liable to legacy duty. There might have been some question, if this had been a condition annexed to the legacy by the testator *himself*, whether the *whole* of the money so received by the legatee was a legacy, or whether a *part* of it was not a purchase of some interest, which might possibly reduce the duty to be paid upon the legacy to the extent of the difference in value between the legacy and the estate given up in consideration of it. That

(g) *Attorney-General v. Lord Henniker*, 7 Exch. 331; 21 L. J., Exch., 293.

may be so; but that question must be settled hereafter, when it comes before the court. It is sufficient to say, that that point does not arise in the present case, which is just the same as if there were no condition annexed by the testator" (*h*). This decision was affirmed by the Exchequer Chamber, when it was said that even if the terms as to the extinguishment of dower could be engrafted into the power created by the first will, several members of the court entertained a strong opinion, that, even in that point of view, this could not be considered as a purchase, but only as a legacy with a condition annexed to the receipt of it (*i*).

The testator by his will devised to his son certain real estates for life, with remainder to his children as he should appoint, and in default of appointment to them as tenants in common in tail general, with cross remainders. And the testator gave power to his son to limit and appoint by deed to or in trust for any woman he should marry, and that either before or after marriage, for her life, for her jointure, and in bar of dower, any annual sum or rent charge not exceeding 400*l.* a year, to be issuing out of the said lands. The devisee, the testator's son, by deed appointed to his wife two annuities, amounting together to 300*l.*, free and clear of all taxes and deduction, charged upon the said lands. He died without making any other appointment, leaving his wife surviving, and leaving also several children, who thereupon became entitled to the estate as tenants in common in tail. The Com-

Appointment
under a
power to
limit joint-
ure in lieu
of dower.

(*h*) *Per Parke, B., Attorney-General v. Lord Henniker*, 7 Exch. 342, 343.

(*i*) *Lord Henniker v. Attorney-General*, 8 Exch. 257, see p. 259; *Blower v. Morret*, 2 Ves. sen. 420.

missioners of Inland Revenue required legacy duty to be paid upon these annuities, which being refused, a petition was presented by the Attorney-General in the suit instituted for administering the estate of the testator. The claim was opposed on the ground that the gifts did not come within the acts 45 Geo. 3, c. 28, and 36 Geo. 3, c. 52, and that it was distinguishable from the case of *Attorney-General v. Henniker (j)*, inasmuch as the testator himself had directed the appointment to be for a jointure and in bar of dower, and that if a gift at all it was for the benefit of the son, and chargeable with duty, if any, at the rate of 1l. per cent., and not with 10l. per cent. *Kindersley, V. C.*, decided in favour of the claim of 10l. per cent., observing that — If a testator gave a legacy out of personalty on condition of the legatee doing some act, as taking the name and arms of the testator, or on condition to convey an estate to a third party, or in the case of a testator having a daughter, a widow with children, and giving an annuity to maintain her children, in all such cases there would be a consideration in return for the legacy, still the legacy duty would be payable. It might be a question if there were a gift of a legacy out of personalty, on a condition the performance of which would cause something to be returned to the personal estate of the testator, whether there the duty would be payable on the whole legacy or whether there would be a deduction in respect of the difference. His Honor thought that the question in this case turned on the original will of the testator, that the legacy passed under that will, and that it was imma-

(j) *Ante*, p. 161.

terial whether the condition was imposed by the instrument executing the power or by the will creating the power (*k*).

A testator bequeathed to the poor of the parish of H. 50*l.* per annum for ever, to be laid out for bread at Christmas, and distributed by the minister and churchwardens to the most needy objects in the parish, which legacy, with others, the testator charged upon all his leasehold and personal property. Sir *L. Shadwell*, V. C., held, that this was a legacy on which duty ought to be paid, on the ground that, although it was not expressed to be given to any individual, yet in effect it was given in such a manner as that the executor held it in trust for certain purposes, and his Honor observed, that where legacies have been given to treasurers of hospitals and other charitable institutions, it has been considered as a matter of course to pay the duty (*l*). But, in a subsequent case (*m*), the Court of Exchequer held, that executors cannot be called upon to pay legacy duty upon the whole of a residue bequeathed to them in trust to divide the interest among poor pious persons, male or female, old or infirm, in ten or fifteen pounds, as they see fit, not omitting large and sick families if of good character. This judgment, which was afterwards affirmed in the Exchequer Chamber (*n*), must be regarded in effect as having overruled the above decision in *Franklin's case*. And it may be observed, that the 11th section of the statute 36 Geo. 3, c. 52 (*o*), on which much

Duty when payable on charitable gifts.

(*k*) *Sweeting v. Sweeting*, 1 Drew. 331; 22 L. J., Ch., 441.

(*l*) *Re Franklin's Charity*, 3 Sim. 147; 3 Yo. & Jerv. 544.

(*m*) *In re Wilkinson*, 1 Cr. Mees. & Rosc. 142, S. C. 4 Tyrwh. 513.

(*n*) *Attorney-General v. Nash*, 1 Mee. & W. 237.

(*o*) See ante, p. 92.

stress was laid by the barons and judges in error, does not appear to have been brought under his Honor's notice in the argument of the case before him.

Monies left to trustees for the purpose of founding a school is a legacy to the trustees for the benefit of strangers in blood, not to the individuals partaking of the benefit of the charity, and is liable to legacy duty.

A testator gave to his executors all the residue of his property to be by them appropriated to the education of the children of the poor of Ireland, principally those in or about the city of Limerick, or as they his executors should in their better judgment deem meet to give the bequest the most extensive efficacy. Pursuant to the Master's report, approving of a scheme for the charity, part of the residue of the testator's estate, which was very considerable, was directed to be applied in establishing a school, and the interest of the residue to be applied towards the expenses of keeping up the school. It was held, that the legacy duty at 10*l.* per cent. was payable in the first instance upon the gross amount of the residue, and not merely upon individual shares in the event of the particular children deriving benefit equivalent to 20*l.* (*p*). Sir *L. Shadwell*, V. C., observed, "It appears to me that there is a material distinction between *Ex parte Franklin's Charity* and *Ex parte Wilkinson*. In the former there was a gift of a perpetual annuity to be disposed of in charity; in the latter the judges seem to consider that there was a gift of a sum in gross to trustees, who had no power but to select objects, and when the selection took place

(*p*) *Attorney-General v. Fitzgerald*, 7 Jur. 569; 13 Sim. 83.

then the legacy was to be disposed of just as if it was not a charitable legacy. It seems to me that that of itself affords a material difference between the cases, for if it is a charity in its original state this court must have the dominion over it, and will determine in what manner the thing shall be employed, and long before any of the parties participate in the legacy the duty must be paid." It is the same thing whether a sum of money is at once given for the benefit of a school already established or for the benefit of a school to be established. And he added, "Money is not to be paid to the children, but a certain quantity of education is to be infused into their minds."

A testator bequeathed to trustees a sum, in the 3½. per cent. consols, in trust, as to 1,700*l.* part thereof, to pay and apply the dividends in establishing and supporting a daily school at N., for the instruction of twenty boys, on the principle of a national school; the dividends to be retained by R. B., sen. and R. B., jun. (two of the trustees), to be so applied; and he directed that R. B., jun. should be the schoolmaster, and that the management of the school should always remain in the family of R. B. And as to 400*l.*, other part of the said stock, the testator directed that the dividends should be paid by the trustees to and applied by the schoolmaster for the time being of the said school, in providing the boys with pinafores, caps and shoes, and also with books and slates; such clothes, books and slates to be left behind them on leaving the school. It was held, that these bequests were subject to legacy duty (*q*). *Parke, B.*, concurred in the opinion of the Vice-Chancellor in

Attorney-General v. Fitzgerald, that the legacies were liable to duty in the same manner as if they had been bequeathed to the trustees of an existing school for the purposes therein mentioned.

Succession
subject to
trusts for
charitable or
public
purposes.

Where property, whether real or personal, shall become subject to a trust for any charitable or public purposes, under any past or future disposition, which, if made in favour of an individual, would confer on him a succession, there shall be payable in respect of such property, upon its becoming subject to such trusts, a duty at the rate of 10*l.* per cent. upon the amount or principal value of such property, and the trustee of any such property may raise the amount of any duty due in respect thereof, with all reasonable expenses, upon the security of the charity property at interest, with power for him to give effectual discharges for the money so raised (r).

Where legacy
duty is pay-
able on in-
terest as well
as principal
of legacy.

It may be observed, that the acts do not specify any time at which the executor or administrator must render his final or residuary account at the stamp office, for the obvious reason that the peculiar circumstances of the property of the deceased would in many cases preclude the possibility of complying with any such restriction. But the duty must be paid on the accruing profits and income of the effects of the deceased from the time of his death to that of delivering the account and offering to pay the duty at the stamp office (s). A testator died in October, 1803, and on the 20th of July, 1808, his executor and residuary legatee delivered in his residuary account of the testator's personal estate intended to be retained by him, and offered to pay the duty on the residuary estate exclusive

(r) 16 & 17 Vict. c. 51, s. 16.

(s) 1 Rep. Leg. 787, 3rd edit.

of the interest which had accrued since the testator's decease, 324*l.* less than it would have been had the duty been computed on the interest accrued. The court decided that the duty was payable on the interest accrued from the death up to the time of the delivering of the account (1).

When a legacy is not paid at the time appointed by the testator, legacy duty is payable not merely on the capital sum bequeathed but on the aggregate amount of the capital and interest, which is ultimately received by the legatee. William, late Duke of Queensbury, died on the 23rd of December, 1810, having by his will bequeathed legacies to the amount of 605,500*l.*, which he directed should be paid within three months after his decease. Shortly after the duke's death a suit was instituted on behalf of the legatees, and a large fund was brought into court, but in consequence of the complicated state in which the testator had left his property, and of the magnitude of the claims against the assets, which were insisted upon or threatened, several years elapsed before any payment could be made to the legatees, and in the meantime the fund standing to the credit of the cause was accumulating. At length in 1818, under an order dated the 14th of August, 1817, a portion of the fund in court, which produced 189,701*l.* 5*s.* 11*d.*, was sold, and the proceeds were apportioned among the legatees. The sum at that time due to the legatees for principal and interest amounted to about 759,000*l.* In 1824, another portion of stock was sold, which produced 404,599*l.* 8*s.* 9*d.*, and that further sum was paid to the different legatees rateably. On both these occasions legacy duty was paid on the whole of the

(1) *Attorney-General v. Cavendish*, Wight. 82.

sum actually applied towards discharge of the legacies, but under protest that such portion as consisted of interest was not liable to duty, and with a reservation of the right of the legatees to claim repayment upon the final settlement of the duties payable on the bequests. On a petition, presented by the legatees, praying that the accountant-general might be ordered to pay to them the whole proceeds of the stock which had been ordered to be apportioned among them, the question was, whether the duty was chargeable on the whole sum which was actually paid to the legatees on account of their respective legacies either for interest or for principal, or whether it was chargeable only on so much of the sum paid to them as represented the capital of their legacies, and not on the sum paid in respect of the interest which had accrued due on that capital. Lord *Lyndhurst*, C., observed, "The court took possession of the assets for the purpose of administration. The legacies were payable three months after the testator's death, and if the court had been in a situation to have appropriated the funds then, it would have appropriated one part to the legatees and another part to the payment of the legacy duty, pursuant to the 25th section of the 36 Geo. 3, c. 52. It happened that in consequence of certain claims at that time existing against the assets of the Duke of Queensbury, the court could not say whether ultimately there would be funds which the legatees would be entitled to receive, and it therefore could not interfere in the way I have alluded to. These claims have since been disposed of, and it is the duty of the court to put all parties as nearly as possible in the same situation as if the legacies had been paid three months after the testator's death. A

certain sum has been appropriated to the satisfaction of the legatees, and the payment of the duty for a sum appropriated for the legacies must be considered as appropriated in part for the payment of the duty which attaches upon the legacies. It must be considered as so appropriated from the time when the legacies were payable, at that time a certain proportion of the appropriated sum would have belonged to the legatees and a certain proportion of it would have belonged to the crown, and it appears to me to be the justice of the case, and not contrary to the acts of parliament, but rather consonant to their whole scope and spirit, that the legatees should have that part of the fund which they would have had if the appropriation had been made at the time fixed by the will, and that the crown should have the full benefit of that part of the fund which it would have been incumbent on the court at the same time to have set apart for the discharge of the duty" (u).

The forgiveness of a bond debt by will is a legacy ^{Forgiveness of debts.} subject to the incidents affecting legacies (x), and consequently, as such, is liable to the payment of the legacy duty. But where a specific sum is bequeathed on a specific debt forgiven, which is known and ascertained at the time of the testator's death, legacy duty is not payable upon the interest accruing in respect of such debt or sum of money between the time of such death and the period when the executors close their accounts. The obligee of a bond, after the death of the principal therein, but during the life of the surety, who was his brother, made his will, containing the following directions relative

(u) *Thomas v. Montgomery*, 3 Russ. 502, 509.

(x) *Izon v. Butler*, 2 Price, 34.

to the bond :—" I hereby forgive the bond debt, both principal and interest, due to me, and entered into by J. M. and my brother J. H. with and for him for the said J. W.'s paying me the principal sum of 4,000*l.* and interest at 4*l.* per cent. &c., and do order the said bond, at my decease, to be delivered up and cancelled." The interest upon the bond was paid up to the death of the testator, whom his brother survived. It was held that this was a legacy whereon legacy duty was payable by J. H., the testator's brother, but upon the principal sum only, and not in respect of interest accruing subsequent to the testator's death (*y*).

Where a testator declared that one-fifth of his personal estate should be divided amongst his creditors named in a schedule to his will, containing the names of the creditors and the debts due to them, which were barred by the Statute of Limitations; it was held, that the bequest created a trust, which was not subject to legacy duty (*z*).

Amount of duty payable in case of a legacy to husband and wife, one of whom is a child of the testator and the other a stranger.

A bequest of the residue to the testator's son in law (a stranger in blood to the deceased), and his wife, the testator's daughter, their executors, administrators and assigns, for their absolute benefit, was held not to be liable to the duty of 1*l.* per cent. on the whole as a bequest to or for the benefit of the testator's daughter, nor to 10*l.* per cent. on the whole as being given to or devolving on or for the benefit of the son in law, but to be liable to the payment of 1*l.* per cent. as to one moiety, and 10*l.* per cent. as to the other (*a*).

(*y*) *Attorney-General v. Holbrook*, 3 *Yo. & Jerv.* 114; *S. C.* 12 *Price*, 407.

(*z*) *Williamson v. Naylor*, 3 *Yo. & Coll.* 208.

(*a*) *Attorney-General v. Bacchus*, 9 *Price*, 30; affirmed in error, 11 *Price*, 547.

By 55 Geo. 3, c. 184, the duty was imposed upon the gift contained in the testator's will and the manner in which the bequest may ultimately operate by force of the marital rights of the husband will not be considered. Therefore, a bequest "of a residue of whatever it may consist, such money as arises from it to be invested in the public funds, the interest to be appropriated to the testator's son and his wife (a stranger in blood) for their lives, with remainder to the grandchildren of the testator in equal proportions." It was held liable under 55 Geo. 3, c. 184, to legacy duty, to be calculated at the rate of 1*l.* per cent. for the son's moiety, and 10*l.* per cent. for that of the wife, upon the principle that the son and his wife each took a life interest in one moiety of the income of the residue (b).

The same rule applied where a life interest in and not the corpus is given, and where the wife is a stranger in blood to the testator.

The law in this respect is now altered, for where any person chargeable with duty under the Legacy Duty Acts in respect of any legacy bequeathed to him or her by a testator dying after the 19th of May, 1853, or in respect of the personal estate of any person dying after the same period, shall have been married to any wife or husband of nearer consanguinity than himself or herself to the predecessor, testator or deceased person, then the person taking such legacy or personal estate shall pay in respect thereof the same rate of duty only as such his or her wife or husband would have been chargeable with if she or he had taken the same (c).

Provision as to married persons chargeable with legacy duties.

It will be observed that by 55 Geo. 3, c. 184, the present rates of duties are respectively imposed only on legacies in cases where the testator died on or before the 5th of April, 1805, and the legacies or

When legacy shall be considered as paid before 31 August, 1815.

(b) *Attorney-General v. Burnie*, 3 Yo. & Jerv. 531.
(c) 16 & 17 Vict. c. 51, s. 11.

residue shall be "paid, delivered, retained, satisfied or discharged" *after* the 31st of August, 1815, and on legacies and successions in cases where the testator or intestate died after the 5th of April, 1805, and the legacies, &c. shall be paid, delivered, retained or discharged after the 31st of August, 1815. It is necessary to determine under what circumstances a legacy shall be considered to be "paid, &c." within the meaning of the above words.

An executor, who is also trustee of a will, by transferring into his own name as trustee the amount of a particular legacy, and acting upon that transfer, does not retain, satisfy or discharge the legacy within the meaning of the act.

A testator, who died in 1794, bequeathed a legacy in consolidated stock to executors in trust to pay the interest to A. B. for life, remainder after her decease to her surviving children on their attaining twenty-one, remainder if no surviving children to her appointees, remainder in default of appointment to her next of kin. Upon the testator's death the executors transferred the legacies into their own names from that of the testator, paid his debts and accounted for the residuary estate to the residuary legatee. The dividends were regularly paid by the executors to A. B. until 1826, when she died leaving three children. And the Court of Exchequer held, that the transfer did not amount to a payment, delivery, retainer, satisfaction or discharge of the legacy before the 31st of August, 1815, and that it was therefore liable to the duty under the 55 Geo. 3, c. 184 (e).

(e) *Attorney-General v. Wood*, 2 Yo. & Jerv. 290. See *Attorney-General v. Manners*, 1 Price, 411.

The payment of money into the name of the Accountant-General of the Court of Chancery, under the directions of the court for the benefit of legatees, is a payment within the meaning of the act. £3,000 was given by will to trustees upon trust to invest and to pay the interest to A. for life, and after her death to transfer the principal to B. Under a decree this legacy was paid by the trustees into court and invested in stock in the name of the Accountant-General previous to the imposition of the duty on legacies by 20 Geo. 3, c. 28, B. being then an infant and therefore incapable of discharging the trustees. This was held to be a sufficient *appropriation* of the legacies within the words of the act of 48 Geo. 3, c. 149, "paid, retained, satisfied or discharged" before the 10th of October, 1808, and therefore upon a question arising at the time of the principal becoming payable, it was determined that no legacy duty was chargeable in respect of it (*f*).

A testator bequeathed a sum of money to A. for life, and after her decease to her children as she should appoint, and in default of appointment equally among all her children, who if sons should attain twenty-one, or if daughters should attain that age or be married, and if she should have no such children then according to her appointment, and in default of appointment, over. Upon the death of the testator a suit was instituted for the purpose of having the legacy secured under the decree made in that suit in the year 1798. The executors paid the amount into the court, and prior to November, 1802, the whole of it was invested in stock in the name of the Accountant-General and placed to the

(*f*) *Hill v. Atkinson*, 2 Mer. 45.

separate account of A., who continued to receive the dividends during her life. It was held, that this was a sufficient payment of the legacy within the 55 Geo. 3, c. 184, and therefore that upon A.'s death, in the year 1834, the parties interested in remainder, who were the children of A., were entitled to receive their several shares of the fund without producing receipts for the legacy duty. Lord *Lyndhurst*, C., observed, "In *Hill v. Atkinson* the legacy was not paid to the party beneficially entitled, nor could it have been so paid without the agreement of the person who had the prior life interest in the fund, but the payment into court was considered to amount to precisely the same thing. That would apply in a case where contingent interests were given, for the court in such a case would equally take possession of the capital, at the same time discharging the executor, and holding the fund upon trust for those who had contingent interests and might become eventually entitled. According to the act of parliament the duty is to attach on all legacies paid after a certain day, and the sole question is, whether the legacy was in this instance paid before or after the particular day. Now it is admitted that the executors here paid the entire fund into the court before that day, under the authority of an order, and that the money was afterwards transferred into the name of the Accountant-General and invested on the account and for the benefit of the tenant for life; and, upon the authority of *Hill v. Atkinson*, I consider that proceeding to have been a payment to such parties whoever they might be as should become eventually entitled to the legacy" (g).

(g) *Coombe v. Trist*, 1 My. & Cr. 69; see p. 77.

The testator by his will devised all his real estates (except his mortgages in fee) unto two trustees, W. V. and J. M., their heirs and assigns, to the use of W. M. and his assigns for life, with remainder in tail to his issue with divers remainders over, and also gave and devised all the residue of his personal estate (after payment of debts and legacies), and all such real estates as he was seised of as mortgagee in fee, unto two trustees, W. V. and W. M., their heirs, executors, administrators and assigns, upon trust to convert the whole of the said residue into money, and to lay out and invest the same as soon as conveniently might be in the purchase of real estates, to be conveyed to the trustees of his real estate, W. V. and J. M., their heirs and assigns, to and upon the same uses and trusts as were thereinbefore declared of and concerning his real estates; and the testator thereby declared that until such purchases were made his said executors should place out or continue all the said residue at interest in the names of his said executors on mortgage of real estate, or if the same should not offer, that the residue should be placed out at interest in the public funds, and the interest and dividends were directed to be paid to the person to whom the rents and profits of the real estate therewith to be purchased would belong by virtue of his will. The testator appointed the said W. V. and W. M. his executors, and died in 1791, when they took upon themselves the execution of the will. The residue amounted to 14,000*l.* and was invested in mortgage in the names of the executors before the year 1796, and before the act 36 Geo. 3, c. 52, after which W. V. died and W. M., who enjoyed the interest during his life, became a surviving executor and died without issue in 1825,

having by his will appointed two executors. The money was never applied in the purchase of real estate, and the executors, under the will of W. M., on the 26th of January, 1832, paid the residue of the personal estate of the original testator to J. M., he being the person entitled to it under the original testator's will. It was held that this was a legacy given by the will of a person dying before the 5th of April, 1805, and paid, satisfied or discharged after the 31st of August, 1815, within the meaning of the stat. 55 Geo. 3, c. 184, and was liable to the payment of legacy duty under that act (h).



SECTION III.—*Of the Liability of Personal Property situate out of Great Britain.*

Succession to
personal
property
regulated by
domicile.

The rule is that personal property follows the person, and it is not in any respect to be regulated by the *situs*, and wherever the domicile of the proprietor is there the property is to be considered as situate (i). Lord *Loughborough* stated in one of his most elaborate judgments "It is a clear proposition, not only of the law of England but of every country in the world where law has the semblance of science, that personal property has no locality. The meaning of that is not that personal property has no visible locality, but that it is subject to that law which governs the person of the owner, both with respect to the disposition of it and with respect to the transmission of it, either by succession or by

(h) *Attorney-General v. Hancock*, 2 Mees. & W. 563.

(i) *Bruce v. Bruce*, 2 Bos. & P. 229 n.; *Somerville v. Somerville*, 5 Ves. 750; *Attorney-General v. Napier*, 6 Exch. 222.

the act of the party; it follows the law of the person. The owner in any country may dispose of his personal property: if he dies, it is not the law of the country in which the property is, but the law of the country of which he was a subject that will regulate the succession" (*k*). The same doctrine was recognized by *Abbott*, C. J., who said "personal property has no locality, and even with respect to that, it is not correct to say that the law of England gives way to the law of the foreign country, but that it is part of the law of England that personal property should be distributed according to the *jus domicilii*" (*l*). If therefore a man die domiciled in this country, and administration be taken out to him here, debts due to him or other of his personal effects in Scotland or abroad shall be distributed according to the law of England (*m*). On the other hand, if a man domiciled abroad die intestate, his whole personal property here is distributable according to the laws of the country where he was so domiciled (*n*).

It is now settled that the law of the place of the domicile of the testator or intestate, at the time of his death, governs the distribution of and succession to personal property in cases of testacy or intestacy (*o*), and therefore a person, in order to make a valid will, must conform to the law of the country

(*k*) *Sill v. Worswick*, 1 H. & Bl. 690.

(*l*) *Doe d. Birtwhistle v. Vardill*, 5 B. & C. 438, 451, 452; 9 Bligh. 32—88; 2 Cl. & Fin. 571.

(*m*) 2 Ves. sen. 35; *Re Ewin*, 1 Cr. & Jerv. 156; 1 Tyrw. 106.

(*n*) *Thorne v. Watkins*, 2 Ves. sen. 37; *Pipon v. Pipon*, Amb. 25. See *Leslie v. Baillie*, 2 Yo. & Coll. C. C. 91.

(*o*) *Stanley v. Bernes*, 3 Hagg. 858; *De Bonneval v. De Bonneval*, 1 Curt. 858; *Curling v. Thornton*, 2 Add. 6; see pp. 21, 22; *Price v. Dewhurst*, 4 My. & Cr. 82; 8 Sim. 76.

where he is domiciled (*p*). In the case of the goods of *Maraver* (*q*), the domicile having been in Spain, the law of that country decided the probate. In *Hare v. Nasmyth* (*r*) the property was in England, where the party died, but the domicile was in Scotland, and the validity of the will was held to depend upon the law of Scotland. But, a will made in due execution of a power of appointment, disposing of personal property situate in this country, will be admitted to probate here, although not executed according to the forms prescribed by the testamentary law of the country in which the testator was domiciled at his death (*s*).

The validity of the will of a person, not a native of this country but domiciled here at his death, and the rights under such will, are regulated by the law of England (*t*).

The law of England and of India are now the same as regards the validity of wills, for shortly after the passing of 7 Will. 4 and 1 Vict. c. 26, an act was passed by the legislature in India assimilating the law of India in respect of wills to that of England (*u*).

The personal estate of a testator must be administered according to the law of the domicile (*x*). Judgments in England will give no priority against assets in England belonging to a testator domiciled abroad, and effect can only be given to them with

(*p*) *Craigie v. Craigie*, 3 Curt. 435.

(*q*) 1 Hagg, Eccl. Rep. 498.

(*r*) 2 Addams, 25.

(*s*) *Tatnall v. Hankey*, 2 Moo. P. C. C. 342.

(*t*) *Price v. Dewhurst*, 8 Sim. 279; 4 My. & Cr. 76; *Yates v. Thompson*, 3 Cl. & Fin. 544.

(*u*) See *Craigie v. Lewin*, 3 Curt. 441; 2 Wms. Exors. 1306, 4th ed.

(*x*) *Wilson v. Lady Dunsany*, 23 Law J., Ch., 492, 18 Beav. 293.

reference to the law of the domicile of the debtor. Although the law of the domicile of a deceased person governs the succession to his personal estate wherever situated, yet the estate itself must be administered in the country in which possession is taken of it under lawful authority (*y*).

It has long been established that property in this country belonging to a foreigner who dies domiciled abroad, having appointed an English executor and bequeathed legacies to English legatees, is not liable to legacy duty (*z*). The act imposing legacy duty does not apply to the case of a foreigner residing abroad, and a will made abroad, although the property may be in England, although the executors may be in England, although the legatees may be in England, and although the property may be administered in England (*a*).

No duty payable on property in this country belonging to a foreigner.

It is clear that the Legacy Duty Acts are co-extensive with the limits of this kingdom, and this kingdom only, and do not extend to the territorial possessions of the crown in India (*b*). Hence, where persons die in India, whose estates, though the estates of *British* subjects, are distributed in India, and are delivered over to the several legatees, whether pecuniary legatees or residuary legatees in India, it has never been the practice, nor was it intended by act of parliament (*c*), that such estates should be chargeable with any legacy duty (*d*). If a testator die in India, and his personal estate be wholly in India, and his executor

Duty on legacies of property abroad.

(*y*) *Preston v. Viscount Melville*, 1 Cl. & Fin. 1.

(*z*) *In re Bruce*, 2 Cr. & Jerv. 436; 2 Tyrw. 475.

(*a*) *Per Lord Lyndhurst, C.*, 12 Cl. & Fin. 20.

(*b*) 1 Cr. & Jerv. 153, 158; 1 Tyrw. 103, 107.

(*c*) 36 Geo. 3, c. 52.

(*d*) *Per Alexander, C. B.*, 1 Cr. & Jerv. 153; 1 Tyrw. 103.

be resident there, and the will be proved there, and the executor remit to a legatee in England or to some other person in England for the specific use of the legatee the amount of his legacy, Sir *John Leach*, V. C., was of opinion that the legacy duty was not payable upon such remittance, inasmuch as the whole estate was administered in India, and the remittance is in respect of a demand which is to be considered as established there (e). The testator having died in India, his property being in India, and having been administered there, the executors having proved the will in India only, and having there appropriated a sum for the satisfaction of a sum, the interest to be applied to the maintenance of the legatee and to be settled upon herself for life with remainder to her children, the interest of the legacy was remitted to England for the benefit of the legatee who had come there. On a claim set up for the legacy duty on the amount of the maintenance; it was held, as there was a specific appropriation in India of the legacy, that the maintenance of 200*l.* remitted was not liable to the legacy duty (f).

A testator, resident in India, and having all his property there, bequeathed his residuary personal estate to his brother J. H. and his sister H. L. in equal shares; but in case his sister should die before him, then to her children. The executor, who was also resident in India, having proved the will there, remitted the residue to his agent in England, with a letter, in which he desired the agent to appropriate the fund according to the annexed extract of the will, by which it would be perceived that half went

(e) *Logan v. Fairlie*, 2 Sim. & Stu. 291.

(f) *Hay v. Fairlie*, 1 Russ. 117.

to J. H. and half to H. L. or her children. H. L. had died in the lifetime of the testator, leaving nine infant children. A suit having been instituted by the children against the agent, and also against the executor and J. L., who were both out of the jurisdiction, for the purpose of having a moiety of the fund secured; it was held, that no legacy duty was payable on such moiety, inasmuch as it had been appropriated in India (g).

It was at one time the doctrine of the courts that legacies bequeathed by a British subject resident in the East Indies, out of his personal estate, to persons living in England, were liable to the duty if the executor proved the will in England and paid the legacies here, notwithstanding the testator realized and possessed his property in India, resided there, made his will there, and died there, and although the executors were in India at the time of their appointment, and the will was originally proved there (h). And it was also held that the legacy duty was payable in respect of bequests of personal property in India by a testator domiciled there, administration having been granted under it there, and the property remitted to England and applied by another administrator in Scotland under an administration granted in England (i).

These cases are, however, overruled, and the liability to legacy duty now depends upon the fact whether the testator at the time of his death was domiciled in England, and is put upon the principle that personal property is to be considered as situate in the place where the owner of it is domiciled at

Liability to duty depends upon domicile of testator.

(g) *Logan v. Fairlie*, 1 Mylne & Craig, 59. See *Hay v. Fairlie*, 1 Russ. C. C. 117.

(h) *Attorney-General v. Cockerell*, 1 Price, 165.

(i) *Attorney-General v. Beatson*, 7 Price, 560. See also *Logan v. Fairlie*, 2 Sim. & Stu. 284.

the time of his death. A testator, domiciled in England, died possessed of considerable property in the American, Austrian, French and Russian funds, which funds were transferable, and the dividends thereof payable in those respective countries only. It appeared that the debts of the testator had been paid out of personal property in this country, and that the residuary legatee had required the executor to transfer into his name the funds in those countries respectively. It also appeared, that the stock had been transferred into the name of the executor, and that he had dealt with and transferred the dividends to legatees by means of powers of attorney. It was held, that the legacy duty was chargeable on this property, because, in point of fact, it was under the administration of the executor, and though he was not bound in order to get at it to take out a probate or administration, still it was by force of the interest he took under his testator's will that it was disposed of; he handed it over to the legatee, whether he was pecuniary legatee or residuary legatee; it was by force of his act it was transferred to such legatee, and it was the very case that it was the intention of the act to fix with the duty (*k*). In *Thomson v. Advocate-General* (*l*) it was said by Lord Lyndhurst, C., that the case *Re Ewin* was decided on this ground, and this ground only, that as it was personal property it must in point of law be considered as following the domicile of the testator, which domicile was England.

A testator, born in Scotland, but having resided many years in India as a surgeon of the king's regiments, died there, leaving real and personal property situated in India, but no assets in Eng-

(*k*) *In re Ewin*, 1 Cr. & Jerv. 151.

(*l*) 12 Cl. & Fin. 21.

land. By his will and testamentary papers, he left the whole of his property in equal divisions to his four natural children, or the survivors of them and their heirs, subject to some small legacies and annuities. His executors having obtained an Indian probate paid the debts and bequests and converted the principal part of the estate into money, which they sent to their bankers in England and invested it in the funds in their own names. Proceedings in Equity were afterwards commenced against them in England to determine the claims of the residuary legatees, all the testator's children having died. The stock was transferred into the name of the Accountant-General of the Court of Chancery, and the court made a decree ascertaining the shares of the several claimants. It was held, that the legacy duty was not payable on the legacies, annuities or shares of residue bequeathed (*m*).

The personal assets, situate in India, of a testator who is domiciled and makes his will and dies in India, are not subject to legacy duty, although such assets are afterwards remitted to this country by an executor who has proved the will in India to executors who have proved the will in England, in respect of the testator's personal estate in England, and are administered under a decree of the Court of Chancery here. A man possessed of personal estate situate partly in England but principally in the East Indies, where he was employed in the service of the East India Company, made his will in the East Indies and died there. After specifically bequeathing his property in England to his

(*m*) *Jackson v. Forbes*, 2 Tyrw. 354; *S. C.* 2 Cr. & J. 382; *S. C.*, in House of Lords, *nom. Attorney-General v. Forbes*, 2 Cl. & Fin. 48.

wife, his will gave considerable pecuniary legacies to his infant children and to various other persons, some of whom were native inhabitants of India. One of the executors lived in Calcutta and proved the will there, and having collected the Indian assets and thereout paid the testator's Indian debts and funeral expenses, he remitted the surplus to England to the other executors, by whom probate of the will in respect of the property in England had been already obtained in this country. In a suit instituted in the Court of Chancery by the testator's children against the executors for the administration of the estate, the fund so remitted was transferred into court, and having proved insufficient to pay the pecuniary legacies in full it was ultimately ordered to be apportioned among the different legatees in proportion to their respective legacies. It was held, that the legacy duty was not payable in respect of any of the sums so appropriated to the respective legatees (n).

John Grant, a British born subject and native of Scotland, made his will in 1829 and died in 1837. At the time of his death he was domiciled in the British colony of Demerara, where the law of Holland was in force. There is not any local duty in the nature of legacy duty payable in that colony. At the time of the death of John Grant he was entitled to a large personal debt due to him in Scotland, which arose from money acquired by him whilst domiciled in Demerara, and transmitted by him to Scotland for safe custody. After his death John Thompson took out probate of his will so far as related to the debt in Scotland, and there, from money arising from the said debt paid, in pursuance of the

(n) *Arnold v. Arnold*, 2 My. & Cr. 256.

will, certain legacies above the amount of 20*l.* and paid over the rest as part of the residue of the personal estate of John Grant. In July, 1840, an information in debt setting forth these facts was filed in the Court of Exchequer in Scotland by her Majesty's advocate-general against John Thompson, and the only question raised was, whether the fact of the domicile of Grant in Demerara prevented the legacy duty (under the 55 Geo. 3, c. 184, Schedule, part 3) from attaching on his personal property in Scotland. The Court of Exchequer decided in favour of the crown (*o*). A writ of error having been brought on that judgment, the following question was put to the judges by the House of Lords:—A., a British born subject, born in England, resided in a British colony. He made his will and died domiciled there. At the time of his death he had debts owing to him in England. His executors in England collected these debts, and out of the money so collected paid legacies to certain legatees in England. The question is, are such legacies liable to the payment of legacy duty? *Tindal*, C. J., delivered the unanimous opinion of the judges that such legacies are not liable to the payment of legacy duty. "It is admitted in all the decided cases that the very general words of the statute, 'every legacy given by any will or testamentary instrument of any person' (*p*), must of necessity receive *some* limitation in their application, for they cannot in reason extend to every person everywhere, whether subjects of this kingdom or foreigners, and whether at the time of their death

(*o*) *Advocate-General v. Thomson*, 3 Dunl., Bell, Mur. & Dona. 1309.

(*p*) See 36 Geo. 3, c. 52, s. 2; *ante*, p. 84.

domiciled within the realm or abroad. And as your lordships' question applies only to legacies out of *personal estate*, strictly and properly so called, we think such necessary limitation is, that the statute does not extend to the will of any person who, at the time of his death, was domiciled out of Great Britain, whether the assets are locally situate in England or not. For we cannot consider that any distinction can be properly made between debts due to the testator from persons resident in the country in which the testator is domiciled at the time of his death and debts due to him from debtors resident in another and different country, but that all such debts do equally form part of the personal property of the testator or intestate, and must all follow the same rule, namely, the law of the domicile of the testator or intestate (*q*). And such principle we think may be extracted from all the later decided cases, though sometimes attempts have been made perhaps ineffectually to reconcile with them the earlier decisions. There is no distinction whatever between the case proposed to us and that decided in the House of Lords, the *Attorney-General v. Forbes* (*r*), except the circumstance that in the present question the personal property is assumed to be for the purpose of the probate locally situated in England at the time of the testator's death. But that circumstance was held to be immaterial in the case (*s*), where it was decided that a British subject dying domiciled in England legacy duty was payable on his property in the funds of Russia, France, Austria and Ame-

(*q*) *Thomson v. Advocate-General*, 12 Cl. & Fin. 17, 18. See 13 Sim. 153.

(*r*) 2 Cl. & Fin. 48, *ante*, p. 183.

(*s*) 1 Cr. & Jerv. 151; *ante*, p. 182.

rica. And again, in the case of *Arnold v. Arnold* (t), where the testator, a natural born Englishman, but domiciled in India, died there, it was held by Lord Chancellor *Cottenham* that the legacy duty was not payable upon the legacies under his will." Lord *Lyndhurst*, C., with the concurrence of Lords *Brougham* and *Campbell*, decided that as the personal property must be considered as following the domicile of the testator, which domicile was *Demerara*, it could not be subject to legacy duty (u).

In this case it was contended on the part of the crown that the proper distinction was, whether the estate was administered by a person in a representative character in this country, and that in case of such administering the legacy duty was payable; but the learned judges thought it a sufficient answer thereto that the legacy duty does not depend on the act of the executor in proving the will in this country or upon his administering here; the question, as it appears to them, not being whether there be administration in England or not, but whether

(t) 2 Myl. & Cr. 256; *ante*, p. 184.

(u) *Thomson v. Advocate-General*, 12 Cl. & Fin. 1. Lord *Campbell* observed, that he believed that if the Chancellor of the Exchequer, who introduced the Legacy Duty Bill into Parliament, had been asked his opinion, he would have been a good deal surprised to hear that he was not to have his legacy duty on such a fund as this, where the testator was a British born subject, and had been domiciled in Great Britain, and had merely acquired a foreign domicile, and had left property that actually was in England or in Scotland at the time of his decease. The truth was, that the doctrine of domicile had sprung up in this country very recently, and neither the legislature nor the judges, until within a few years, thought much of it; but it is a convenient doctrine, it is now well understood, and Lord *Campbell* thought that it solved the difficulty with which the case was surrounded. 8. C. 12 Cl. & Fin. 28.

the will and legacy are a will and legacy within the meaning of the statute imposing the duty (*x*).

A., a British subject, domiciled in England, made his will and died in England, and by his will disposed of certain government notes of the East India Company issued at Calcutta, and the amount of which was receivable only under an Indian probate, and appointed an English executor. The executor executed a power of attorney to S. in India, who thereupon obtained letters of administration with the will annexed in India, under which he received the amount of the notes and remitted it to the executor in England, who paid it over to the legatees. It was held, that the legacy duty was payable thereon, as there was, first, the fact that the testator was a British subject or a person domiciled in England; and next, that the will was made in England and administered in England by an English executor (*y*).

Where the intestate was domiciled in England and the property was abroad legacy duty will attach. A British born subject, an officer in her Majesty's army in India, died there intestate, leaving all his property situate in that country, with the exception of a small sum of money due to him from the war office in England. His widow took out letters of administration in India, and after paying the debts, &c. invested the rest of the estate in India in her own name, for her own benefit and that of the next of kin. She afterwards took out letters of administration in England for the purpose of obtaining the debt due from the war office. It was held, that as the deceased was on duty in India

(*x*) *Thomson v. Advocate-General*, 12 Cl. & Fin. 18, 19.

(*y*) *In re Coales*, 7 Mee. & W. 390.

in her Majesty's service, he did not acquire a domicile in that country, and that the whole of his property, though chiefly situate abroad, was liable to legacy duty (z).

In matters to be determined by the domicile of the parties, it is a principle of law that the domicile of origin must prevail until the party has not only acquired another but has manifested and carried into execution an intention of abandoning his former domicile and acquiring another as his sole domicile. In order to acquire a domicile there must be actual residence in the place chosen which must be the principal and permanent residence of the party (a). The mere declaration of intention to change a domicile without an actual change of residence is inoperative to create a new domicile. To constitute a new domicile in a place there must be not only the *factum* of residence there, but the *animus manendi*, that is, there must be a fixed resolution to have a permanent and continued residence in the place of actual residence. A Scotchman came to England at the age of sixteen, and remained in the English naval service until his death in 1848. It was held that he had not lost his domicile of origin (b). It is not by purchasing or occupying a house or furnishing it, or vesting a part of his capital there, nor by residence alone, that domicile is acquired, but it must be residence with the intention that it should be permanent (c). The meaning of the word residence is distinct from that of domi-

(z) *Attorney-General v. Napier*, 6 Exch. 217; 15 Jur. 253; 20 Law J., Exch., 173.

(a) *Dalhousie v. M'Douall*, 7 Cl. & Fin. 817.

(b) *Brown v. Smith*, 15 Beav. 444; 21 Law J., Ch., 356.

(c) *Munro v. Munro*, 7 Cl. & Fin. 877. See 1 Burge, Comm. 54.

oile. Every person is assumed to have some domicile. While an infant he has the domicile of his parents, which continues even after he comes of age until he changes it and acquires another. So that a person might be born in England of parents whose domicile was Scotch, and he might never afterwards acquire a domicile of his own, and thus might have a Scotch domicile without ever having been in Scotland. But "residence" implies, in all cases, personal presence in the locality at some period or other (*d*). A domicile once acquired remains until finally abandoned or until a new one is acquired. To constitute a change of domicile there must be both *animus et factum*, residence in a country for any length of time is insufficient, without these requisites to constitute a change of domicile. Where a question between a reverter to the domicile of origin and a domicile in another country is *in equilibrio*, the domicile of origin will prevail. A native Scotchman having by employment in the military service of the East India Company acquired a domicile in India, it was held that by his return to Scotland *animo manendi* his original domicile did not revive, the party still holding his commission, and being liable to be called upon to return to India and intending to return if called upon to do so (*e*).

What is a
change of
domicile.

If a natural born subject domiciled in England enters into her Majesty's service and goes abroad at the Queen's command into foreign service, it is quite clear that his original domicile has not been parted with by him. He goes for a temporary purpose and is supposed to be there for a time only, but

(*d*) *Walcot v. Botfield*, 1 Kay, 543, 544.

(*e*) *Craigie v. Lewin*, 7 Jur. 519.

not for the purpose of fixing his permanent abode abroad (*f*).

An English officer in the service of the East India Company residing in the East Indies thereby acquires a domicile in that country (*g*). An engagement to serve and actual service in the Indian army under a commission from the East India Company, when the duties of such an appointment necessarily require residence in India for an indefinite period, confers upon the officer an Anglo-Indian domicile, for the law in such a case presumes an intention consistent with his duty and holds his residence to be *animo et facto* in India, and this even if he have property in the country which was his domicile of origin (*h*). A domiciled Scotchman having ancestral property but no house in his native country, by accepting a commission and serving in the Indian army, abandoned his domicile of origin and acquired an Anglo-Indian domicile. He afterwards attained the rank of general in the Indian army and was made colonel of a regiment, and then left India with the intention of not returning thither, but came to Great Britain, where he lived part of the year in a house which he had built on his estate in Scotland, and part in a hired house in London, under circumstances, which if he had been a single man would have given him again a Scotch domicile; but his wife and establishment of servants resided constantly at the house in London. It was held, that this fact counterbalanced the effect of the other circumstance, and proved that his intention was permanently to reside in England, and that therefore

(*f*) *Attorney-General v. Napier*, 6 Exch. p. 221.

(*g*) *Attorney-General v. Napier*, 6 Exch. 217.

(*h*) *Forbes v. Forbes*, 1 Kay, 341.

he must be considered to have abandoned his acquired domicile in India and acquired by choice a new one in England (i).

A British subject domiciled and having real and personal estates in England went abroad, and purchased, in 1828, the title, castle and estates of R., in the Papal States. He hired Italian domestic servants, male and female, whom he kept at R. until his death. He expended large sums in repairing and improving the castle and grounds of R., which repairs and improvements were going on at the time of his death. He did not make R. his constant residence, but from 1828 to 1831 sometimes occupied it, sometimes lived in furnished lodgings in the town adjacent, and at other times visited Rome, Florence and other parts of Italy, residing in furnished lodgings. In 1831 he came to England and resided in different parts of it till September, 1832. In March, 1832, he made his will in London. In the same month he left England and went to Florence, where he remained two months, and thence to R.; he then lived sometimes in the castle of R., sometimes in furnished lodgings in the adjacent towns till October, 1833, when he went to Rome and there lived in furnished lodgings till his death in February, 1834. It was held, that upon these facts there was no evidence of the testator's having actually acquired a domicile at R. or elsewhere abroad, although they indicated an intention to make R. his domicile; that his English domicile therefore remained, and legacy duty was consequently payable on the bequests contained in his will (k).

(i) *Forbes v. Forbes*, 1 Kay, 341.

(k) *Attorney-General v. Dunn*, 6 Mee. & W. 511.

A man may travel about the continent for four or five years, amusing himself at the bathing places or visiting galleries of works of art; yet, however long he may remain, it does not constitute a domicile in any of those places, more especially if he has had a domicile, which he never loses until he has acquired another (1).

A British subject went to settle in France in 1762, and afterwards purchased an estate and became naturalized there. In 1791 he left France and came to England in consequence of the French Revolution, and shortly afterwards his property was confiscated by the revolutionary government. In January, 1802, he made a will in London, by which he left his property partly to a charity in Ireland and partly to individuals resident in England, and appointed one of those individuals his executor. In April, 1802, emigrants were permitted to return to France and soon afterwards he returned to that country. In 1804 he made a will in Paris, in which he stated that he was born at Waterford and had come to France to obtain restitution of his estate, and after referring to his former will (which he had mislaid in London), he recapitulated very nearly its contents and concluded by expressly confirming it. He died in Paris in 1806, and his two testamentary papers were proved both in France and in England. Under the treaty of peace between England and France in 1815 a large sum of French stock was set apart by the then French government for the purpose of compensating British subjects whose property had been confiscated by the revolutionary government, and part of that sum was awarded by commissioners ap-

(1) 6 Mee. & W. 527. *Per Lord Abinger.*

pointed by the British government to the testator's executors for the loss of the testator's property in France. The commissioners, under the powers of an act of parliament, sold the stock so awarded and paid the proceeds into the Court of Chancery. It was held, that the testator was domiciled in France at his death, and that the fund in court was not subject to legacy duty (m).



SECTION IV.—*By whom Legacy Duties are payable.*

The statute 36 Geo. 3, c. 52, s. 6, provides that the duties in all cases wherein it is not otherwise thereby provided for, must be paid by the executor or administrator upon retainer for his own benefit, or for the benefit of any other person of any legacy or part of a legacy, or of the residue or any part of such residue which he shall be entitled so to retain, and also upon delivery, payment or discharge of any legacy or residue, &c., to which any other person shall be entitled (n). By the statute 45 Geo. 3, c. 28, s. 5 (o), it is provided, that the duties imposed on legacies charged upon or made payable out of real estate, &c., shall be paid by the trustee or other person entitled to the real estate which is subject to the legacy, and that the duty shall be retained by the person paying such legacy in like manner as is provided respecting legacies out of personal estate by the statute 36 Geo. 3.

(m) *Commissioners of Charitable Donations v. Devereux*, 13 Sim. 14.

(n) See *ante*, p. 86.

(o) *Ante*, p. 125.

Questions have frequently arisen whether legacies are not by the terms of the will to be paid in full, free from the legacy duty, so as to make it incumbent upon the executor to retain the duty out of the residue, instead of deducting from the payment to the legatee. Where the will contains a direction for payment of the duty out of some other fund the money applied in payment of the duty is not charged with duty as a legacy (*p*). The succession duty also is not payable upon any monies applied to the payment of the duty on any succession according to any trust for that purpose (*q*).

Wherever it can be collected from the expressions of the will and the circumstances under which it was made, that it was the testator's intention that the legatee should receive the legacy clear of duty, it must be paid by the executors or residuary legatee as in the following instances:—Where the legacies were to be paid “without deduction”(*r*), or “without any deduction whatever”(*s*), or “clear of all deduction”(*t*), or “clear of property tax and all expenses whatsoever”(*u*), or “free from all expense”(*w*), or “clear of all taxes and outgoings”(*y*), or “clear of all taxes and deductions whatever”(*z*).

It has been contended in some cases that a direction to pay annuities *without deduction* would not

(*p*) 36 Geo. 3, c. 52, s. 21, *ante*, p. 101.

(*q*) 16 & 17 Vict. c. 51, s. 18.

(*r*) *Barksdale v. Gilliat*, 1 Swanst. 562.

(*s*) *Smith v. Anderson*, 4 Russ. 352.

(*t*) *Dawkins v. Tatham*, 2 Sim. 492, *post*, p. 204.

(*u*) *Courtoy v. Vincent*, 1 Turn. & Russ. 433, *post*, p. 200.

(*x*) *Gosden v. Dotterill*, 1 Mylne & K. 56.

(*y*) *Louch v. Peters*, 1 Mylne & K. 489, *post*, p. 197.

(*z*) *Stow v. Davenport*, 5 B. & Adol. 359.

An annuity or clear yearly rent-charge given by a will, clear of all taxes and deductions, is subject to *property tax*. *Wall v. Wall*, 15 Sim. 513.

extend to exempt the annuitants from the legacy duty, if, from the nature of the property out of which the annuities were payable, there was any other deduction to which the annuities might be subject. Such doctrine was admitted by *Leech*, M. R., in *Smith v. Anderson* (a) to be the fair result of Lord *Eldon's* judgment in *Barksdale v. Gilliat* (b), but the correctness of this view of that judgment has been denied by subsequent judges (c).

The testatrix devised to the plaintiff during his natural life one annuity or clear yearly sum of 500*l.* to be payable to him out of certain real estates mentioned in the will, and directed that the said annuity should be paid half-yearly clear of all taxes and outgoings. It was contended for the defendant, who was executor of the testatrix, residuary legatee and devisee for life of the estate charged with the annuity, that the legacy duty was a charge upon the legatee or annuitant, and that where such expressions as those used by the testator could be referred to taxes or outgoings properly applicable to the subject-matter of the gift, as land tax, poor rate and other charges to which the land was liable, the legatee or annuitant remained liable to the legacy duty. Lord *Brougham*, C., in giving judgment observed:—"It may safely be asserted that when a testatrix gives a clear annuity, and directs it to be paid *clear* of all taxes and outgoings, she would be a good deal surprised to find it held that the legacy duty was considered to be neither an outgoing nor a tax, the very tax and outgoing which, from the

(a) 4 Russ. 354.

(b) 1 Swanst. 562.

(c) Per Lord *Brougham*, C., *Louch v. Peters*, 1 My. & K. 499; Per *Alderson*, B., *Gude v. Mumford*, 2 Yo. & Coll. 448.

nature of the thing, from the subject-matter being a legacy, she was more likely to have present to her mind than any other. To deny that the legacy duty is an outgoing surely seems strong, especially in reading a will, but to doubt that it is a tax appears really a subtlety that passes all understanding." It was accordingly decided that the annuity was to be paid free from legacy duty (*d*).

In *Gude v. Mumford*(*e*), a testator devised to J. M., for his life, "one annuity or *clear* yearly sum of 100*l*," and charged his estates at C. "with the payment of the said annuity or yearly sum of 100*l*." He then devised the estates at C. to trustees in trust to levy and raise the annuity and pay the same to J. M., and subject thereto, and all costs, charges and expenses attending the raising and paying the same, in trust for A. for life, with remainder to B. in fee. It was held, that J. M. was entitled to the annuity clear of all deductions for legacy duty, and that the residuary estate was chargeable with the duty payable thereon. *Alderson*, B., observed, that it was clear from the authorities on the subject that if it can be collected from any directions contained in the will that the testatrix's intention was that the legacy duty should be paid by the executor, the court will carry that direction into effect. And he denied that the view taken by Sir *J. Leach* of Lord *Eldon's* judgment in *Barksdale v. Gilliat* was correct, but declared his opinion that the right construction of it was that Lord *Eldon* considered the words "without deduction" in their ordinary sense mean clear of all deductions. He then went on to examine whether in the four corners of the will he could find

(*d*) *Louch v. Peters*, 1 My. & K. 489.

(*e*) 2 Yo. & Coll. 448.

the same words used in another sense or in a more definite and limited sense, and whether if he could find an intention to use them in a limited sense he could carry that intention into effect, and upon the whole he arrived at the conclusion that the words must be used in their ordinary sense without qualification. *Alderson, B.*, expressed an opinion that the word "clear" meant clear of all deductions, but added that the latter part of the will put the question out of doubt. The trustees who held the land out of which the annuity was to be raised were to deduct the costs, charges and expenses attending the raising and paying it out of the profits of the land. The legacy is a charge of expense attending the raising and paying the annuity.

Testator devised his copyholds and estates of inheritance unto his wife for life, "but subject to the payment of one *clear* yearly rent-charge or annuity of 100*l.*" to B. for life. It was held, that the annuity was free from legacy duty (*f*).

A testator directed his executors to set apart a sum of money, not more than 7,500*l.*, the yearly dividends and interest of which when invested as after directed would amount to or produce the *clear* yearly sum of 300*l.*, *clear of all deductions whatsoever*, and to invest the sum so to be set apart in government or other securities, and he directed that if at any time the dividends of the trust monies should from any cause whatsoever prove insufficient to answer the purposes aforesaid, the trustees should out of the residue of the monies that should come to their hands raise such further sum as should be sufficient to make good any deficiency and apply the same accordingly, and he gave the annuity to

(*f*) *Baily v. Boulton*, 14 Beav. 595; 21 L. J., Ch., 277.

the plaintiff for life. It was held, that the annuity was free from legacy duty, it being considered plain that the testator intended the annuitant to take the annuity free from any diminution whatever (*g*).

A testatrix gave to trustees such a sum of money as that the annual produce thereof when invested in the funds would produce a *clear* yearly sum of 500*l.*, upon trust to pay the annual produce to certain of her relations in succession for life, and afterwards as to one fifth part upon trust to pay the annual produce of it to M. C. G., for his life, and after his decease to any wife who might survive him during her life, and after the decease of the survivor of them, upon trust for his children. *Shadwell*, V. C., said, that it appeared from the language of the will that the testatrix meant that what she had directed to be done should be done at once; that M. C. G. might or might not marry a relation of the testatrix, and his children might be related in some degree to the testatrix or they might not, and therefore the word *clear* must be taken to refer not to the legacy duty but to the expenses of the investment and so on (*h*).

A testator bequeathed some specific chattels and a sum of 200*l.* to A., and he directed his executors to invest in the funds such a sum as would produce 200*l.* a year clear of the legacy duty and all other deductions, which annual sum was to be paid to A. for her life, and after her decease the principal was to be paid to other parties, and the testator directed his executors to pay the legacy duty on the specific and pecuniary legacies and yearly sum given to A., and the legatees in remainder, were strangers in

(*g*) *Morris v. Burton*, 11 Sim. 161. See *Ford v. Ruston*, 1 Coll. 403.

(*h*) *Saunders v. Keddell*, 7 Sim. 536.

blood to the testator. The residuary legatee having contended that the bequests to A. alone were exempted from the legacy duty; it was held, that the legacy duty was payable out of the testator's residuary estate, both in respect of the interest given to A. and to those in remainder (i).

In *Noel v. Lord Henley* (k), a legacy was bequeathed to be paid out of the rents and profits, and the produce of the sale of a real estate devised to be sold for the payment of such legacy, *inter alia*. In a subsequent part of the will, this legacy was directed, by a general clause extending to all the legacies before given, to be paid in full, free of the duty; and the Court of Exchequer held, that the duty on that particular legacy must be paid out of the real fund and not out of the personalty; the exemption from the duty being an augmentation of the legacy, and therefore payable out of the specific fund. So, where a testator, after giving various annuities and legacies, requested "that his executors would pay all such annuities and legacies as aforesaid, clear of property tax and all expenses whatsoever attending the same," on a petition being presented praying that the amount of the legacy duty which had been retained by the executors might be paid to the annuitants and legatees; it was decided that the legacy duty ought to have been paid out of the testator's assets, and that the annuitants and legatees were entitled to the full amount of their respective legacies and annuities without any deduction in respect of legacy duty (l).

Legacy duty on income arising from a residue directed to be laid out in land, must be paid by the

(i) *Calvert v. Sebbon*, 2 Keen, 672.

(k) 7 Price, 241; *S. C.* in Dom. Proc. 12 Price, 213.

(l) *Courtoy v. Vincent*, Turn. & Russ. 433.

tenant for life entitled to such income, although the will contained a direction for payment of the duty on all annuities and legacies out of the general personal estate (*m*).

Where a testator gave to a legatee 50,000*l.* consols, to be transferred within six months after his decease, and, after giving a variety of specific and pecuniary legacies, he directed that the duty upon all the *pecuniary* legacies thereinbefore bequeathed should be paid out of his general personal estate. It was held, that the legacy of stock was not a pecuniary legacy, and therefore not exempted by the clause of the will from the payment of legacy duty (*n*).

A testatrix directed all her personal estate to be converted into money, and her debts and funeral expenses and legacies to be paid out of the proceeds, and that out of the residue large sums of stock should be appropriated upon certain trusts. She then gave some pecuniary legacies of small amount and directed that all the said legacies, and all legacies thereafter given, should be paid free from legacy duty. It was held, that the exemptions from legacy duty applied to the bequest of stock as well as to the pecuniary legacies (*o*).

A legacy given by a codicil, by way of substitution, for a legacy given by a will, is to be taken with all the incidents which originally belonged to the latter, and is to be enjoyed in the same way in which the testator intended the latter should be enjoyed (*p*).

(*m*) *Lord Londesborough v. Somerville*, 23 L. J., Chanc., 646.

(*n*) *Douglas v. Congreve*, 1 Keen, 410.

(*o*) *Ansley v. Cotton*, 16 Law J., Chan., 55.

(*p*) *Duke of St. Alban's v. Beaucherk*, 2 Atk. 636; *Leacock v. Maynard*, 3 Br. C. C. 233; *S. C.* 1 Ves. jun. 279; *Crowder v. Clowes*, 2 Ves. jun. 449; *Day v. Craft*, 4 Beav. 561.

A legacy substituted for or added to another is generally to be raised out of the same fund and subject to the same conditions as the original legacy (*q*). Thus, where a testator gave 4,000*l.* to trustees upon trust for his two daughters at twenty-one, and directed that the legacy duty due in respect thereof should be paid by his executors out of the residue. By codicil the testator, reciting that bequest and that he was desirous of increasing the same to 5,000*l.*, revoked the gift of 4,000*l.*, and gave 5,000*l.* upon the same trusts. By a second codicil, reciting the former and that he was desirous of further increasing to 6,000*l.*, the testator revoked the gift of 5,000*l.* and gave in lieu thereof 6,000*l.* upon the same trusts. It was held, that the last legacy was in augmentation of amount without any alteration in circumstances, and that the substituted legacy of 6,000*l.* was to be taken as exempted from the legacy duty, in like manner with the original legacy, in the place of which it was substituted, and therefore that the legacy of 6,000*l.* was not liable to any deduction on account of legacy duty (*r*). So, where a testator by his will gave an annuity to his grandson and directed his executors to pay the legacy duty on all the legacies and annuities given by his will, and by a codicil he gave an annuity to his grandson in lieu of the annuity given by his will; it was held, that the annuity given by the codicil was free from legacy duty on the ground that when the thing bequeathed by the codicil as a mere substitution for that which is bequeathed by the will, it is to be taken with all its incidents (*s*). But where a testator bequeathed

(*q*) *Crowder v. Clowes*, 2 Ves. jun. 449; *Leacock v. Maynard*, 8 Br. C. C. 233; *S. C.* 1 Ves. jun. 279.

(*r*) *Cooper v. Day*, 3 Mer. 154.

(*s*) *Shaftesbury v. Marlborough*, 7 Sim. 237.

to his daughter 50,000*l.*, of which 20,000*l.* was to be paid to her absolutely, and as to the remaining 30,000*l.* she was to receive the interest to her separate use during her life, and after her death the principal was to be paid to such person or persons as she might by her will appoint, and after giving various other legacies, and bequeathing to the same daughter a share of the residue of his personal estate, he directed that the specific and pecuniary legacies thereinbefore bequeathed should be paid to the respective legatees, free of the legacy duty. The daughter having died in the testator's lifetime, he afterwards, by a codicil, "instead of the legacies bequeathed to her by my said will which are now lapsed," gave unto her husband 20,000*l.* The court held, that such legacy could not be considered as given by way of substitution for the legacy which the will had destined for the wife, but was an independent distinct substantive legacy, which was not to be paid free of legacy duty (*t*).

A testator by his will bequeathed certain legacies to charitable institutions, and directed that they should be paid as follows:—"which charitable legacies I direct may be paid out of my personal estate prior to the payment of my debts, and the said legacies by me given and bequeathed." He then directed all his legacies to be paid within two years after his decease "free of any deduction for tax or duty, or otherwise howsoever." By a codicil he bequeathed legacies payable and raisable immediately. It was held, that the charitable legacies and the legacies given by the codicil raisable immediately were to be paid free from legacy

(*t*) *Chatteris v. Young*, 2 Russ. 183.

duty (u). A testator by his will directed that the legacies therein given should be paid free of legacy duty. By a codicil, which he directed might be taken and considered as part of his will, he gave other legacies, but gave no directions as to legacy duty. It was held, that the latter legacies were not given free of legacy duty (x).

A testator by his will gave to his two sisters an annuity of 300*l.* free from all taxes and stamp duties, and by a codicil revoked those legacies and gave his sisters a *clear* annuity of 100*l.* each, with benefit of survivorship. It was held, that the annuities given by the codicil being complete and distinct from the gift in the will were subject to legacy duty (y).

An annuity "clear of all deductions whatsoever," directed by a will to be paid out of certain stocks in the public funds, was held not subject to the legacy duty (z).

A bequest of a *clear* annuity or yearly sum for the life of the annuitant, to be paid by the testator's trustees and executors, was held to be given free of legacy duty which was decreed to be payable out of the *corpus* of the testator's property. Lord *J. K. Bruce* considered the point settled in favour of the annuitant, by authority which ought not to be disturbed, although in the absence of authority he might have held differently (a).

In the case of the *Attorney-General v. Jackson* (b), an annuity or clear yearly rent-charge of

(u) *Byne v. Currey*, 2 Cr. & Mees. 603.

(x) *Early v. Benbow*, 2 Coll. C. C. 354.

(y) *Burrows v. Cottrell*, 3 Sim. 375.

(z) *Dawkins v. Tatham*, 2 Sim. 492.

(a) *Haynes v. Haynes*, 3 De G. M. & G. 590.

(b) 2 Cr. & Jerv. 101. See *ante*, p. 153.

500*l.*, without any deduction, was charged by will on a freehold estate, and it was held that the devisees of the estate, one of whom was tenant for life of one moiety, and the other entitled in fee to the other moiety, were jointly bound to pay the legacy duty (c).

The legacy duty is a charge upon the land charged with the annuity, and therefore, where a testator devised an estate to the use that A. should take a yearly annuity, "clear of all taxes and deductions whatsoever," payable quarterly, with remainder to B. for life, subject to the annuity; it was held that the annuity was to be paid clear of the legacy duty, and was a charge upon the land, and consequently, that B., who had entered into possession under the devise to him and had been compelled to pay the legacy duty on the annuity pursuant to 45 Geo. 3, c. 28, s. 5, could not recover it again from the annuitant, there being no charge upon any other fund than the land upon which was imposed the burden of paying the annuity clear of all taxes and deductions (d).

Executors under a will, who had paid the legacy duty imposed by 45 Geo. 3, c. 28, s. 5, in respect of an annuity secured on real estate, eight years after the testator's death, were held to be entitled to recover the amount from the annuitant in an action for money paid, although the annuity had been assigned three years before on the ground that the payment by the executors was compulsory under 36 Geo. 3, c. 52, s. 6, which provided that if the duty was not paid at the time of the payment

Liability of
legatees to
repay legacy
duty.

(c) *Attorney-General v. Jackson*, 2 Cr. & Jerv. 101.

(d) *Stow v. Davenport*, 5 B. & Adol. 359.

of the annuity both the executor and legatee were liable, and if the instalments were not regularly made the legatee remained liable as in the first instance (e).

An executor allowed the legatee of leasehold to occupy for fifteen years. The legacy duty being unpaid the executor was then called on to pay duty on the profits accruing on the fifteen years as well as on the principal value of the premises. It was held, that he was liable for the whole of such duty, and that he might recover all the money paid on that account as money paid to the use of the legatee (f).

A testatrix, after giving several legacies free of duty, bequeathed a part of her estate to trustees, "upon trust to pay off all and every debt and debts of her first husband that could be legally and satisfactorily proved against him, as it was her will and desire that the same should be discharged. It was held, that the creditors were liable to the duties payable upon this bequest (g). A bill having been filed in Chancery to ascertain the debts due from the testatrix's late husband, the parties appeared before the court, and the amount of the debts was ascertained and paid in full, but the court neglected to give directions for the payment of the legacy duties pursuant to 36 Geo. 3, c. 52, s. 25 (h). The duties were subsequently paid by the executor, when the accounts were passed through the stamp office. It was held, that they could maintain an action to

(e) *Hales v. Freeman*, 4 Moore, 21; 5 C. 1 Brod. & B. 391.

(f) *Bate v. Payne*, 13 Q. B. 900.

(g) *Foster v. Ley*, 2 Scott, 438; 2 Bing. N. R. 269.

(h) *Ante*, p. 107.

recover the amount of the duties against the legatees in respect of whose legacies they were paid (i).

A., being entitled to a reversion in fee contingent on B. dying without leaving issue male who should attain twenty-one, devised the same to trustees to sell and divide the produce into five parts. C., one of the legatees, who was entitled to three-fifths of the produce, bequeathed all his interest to trustees to sell and pay debts and the surplus to be considered as land and laid out for the benefit of his nephew; and appointed his trustees executors. The debts were paid, and the nephew sold all his interest to D. After this the reversion fell into possession and the estates were sold, the greater part to D., and he out of the purchase-money retained, with the consent of the surviving trustee of the will of A., a sum equal to the three-fifth parts he had bought of the produce and took a conveyance from him. The commissioners of legacy duties called on and compelled the surviving executor of C. to pay the legacy duty on the amount retained by D. in respect of the three-fifths; and he filed his bill against the devisee of the will of D. praying a declaration that the duty was payable in respect of the money retained in respect of the three-fifths, and that D. ought to have paid the duty, and that the duty was a charge on the purchase-moneys or on a proportionate part of the land as representing such purchase-moneys, and praying an account and payment of the amount paid for duty by the plaintiff, and interest, but the bill was dismissed without costs (h).

(i) *Foster v. Ley*, 2 Scott, 438.

(h) *Farwell v. Seale*, 13 Jur. 483; 18 L. J., Chan., 189; 3 De G. & S. 359.

Construction of the Legacy Duty Acts.

A. B., being entitled to a legacy and being indebted to C. D., by a deed, which represented that it was "unincumbered," assigned it to C. D. upon trust to retain a moiety and as to the residue in trust for A. B. The fund was in court and liable to the legacy duty. It was held, first, that C. D.'s moiety must bear its share of the legacy duty, and secondly, that C. D. was not entitled as against A. B.'s share to the costs of the proceedings to clear and ascertain the fund and obtain payment (l).

A testator left annuities and legacies, the duty on some of which was charged on the residue. The executor paid the legacy duty on the annuities and paid the legacies, but did not pay the duty on them, and afterwards became bankrupt. The residue of the estate would be insufficient after payment of the costs of an administration suit, and of the payment of the duty unpaid, to provide for the annuities. It was held, that the crown had no claim on the estate (m).

(l) *Bliss v. Putnam*, 7 Beav. 40.

(m) *Wright v. Barnwell*, 13 Jur. 1041.

CHAPTER IV.

OF THE SUCCESSION DUTY.

—
SECT. I.—*Of the Interests in Real and Personal Property liable to Succession Duty.*

SECT. II.—*The Amount of Duty on Successions.*

SECT. III.—*Of Exemptions from Succession Duty.*

SECT. IV.—*How Real Property is chargeable.*

SECT. V.—*Special Provisions as to charging certain Interests in Real Property.*

SECT. VI.—*How Personal Property is chargeable.*

SECT. VII.—*Proceedings for the Assessment of Real and Personal Property.*

SECT. VIII.—*Powers of the Commissioners to commute and compound Duties, to receive in advance, and to return Duty.*

SECT. IX.—*Provisions for securing Payment of Succession Duty.*

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SECTION I.—*Of the Interests in Real and Personal Property liable to Succession Duty.*

The Succession Duty Act, 1853, is very general in its operation, and applies to real property, including under that term freehold, copyhold, customary leasehold and other hereditaments, and heritable property, whether corporeal or incorporeal, in Great Britain and Ireland, except money secured on heritable property in Scotland. It also includes all estates in any such hereditaments, as estates in fee simple, fee tail, for life, for years, whether absolute or determinable upon any life or lives, and the persons becoming entitled to any such estates as a succession, whether solely or jointly, or as

To what property the act relates.

coparceners, or as tenants in common, upon the death of any person dying after the 19th of May, 1853.

The act applies also to "personal property," excluding leaseholds from that term, but including money payable under any engagement, and money secured on heritable property in Scotland, and *all other property* not comprised in the preceding definition of real property (a).

Incorporeal
heredita-
ments.

It will be observed, that incorporeal hereditaments are included in the term real property, and therefore a right of common rights of way and franchises, if they yield an annual profit, are liable to the succession duty. Tithes, or a rent-charge in lieu of tithes (except the interest of a rector, vicar or other ecclesiastical incumbent), coming to a successor on the death of another, are liable in the same way as land. A rent-charge may be either in fee, for life or for a term of years, and will be chargeable accordingly. An annuity is a thing very distinct from a rent-charge, with which it is frequently confounded; a rent-charge being a burden imposed upon lands, whereas an annuity is a yearly sum chargeable only upon the *person* of the grantor. It may be granted in fee, for life or for years (b). An annuity so far partakes of the nature of real property that when limited to the heirs of the grantee it will on his intestacy descend like real estate to the heir, but it is still personal property (c), and will pass by his will under a bequest of all his personal estate (d). But, unless words of inheritance are used in the grant the annuity will pass to the executors, as where a testator

(a) 16 & 17 Vict. c. 51, s. 1.

(b) 1 Bl. Comm. 40; Co. Litt. 144.

(c) *Earl Stafford v. Buckley*, 2 Ves. sen. 171; *Radburn v. Jarvis*, 3 Beav. 450, 461; *Turner v. Turner*, 1 Br. C. C. 316.

(d) *Aubin v. Daly*, 4 B. & Ald. 59.

gave his real and personal estate to his wife, subject amongst other bequests to an annuity of 50*l.* to A. B. *for ever*; it was held, that for want of the word heirs in the gift the annuity passed on A. B.'s death to his personal representative (*e*).

Stock in the public funds or bank annuities, and shares in joint stock companies, are treated as incorporeal personal property (*f*).

For rent service the reversioner or landlord will be liable to be charged in assessing the succession duty upon land. Rents of assise, chief rents or quit rents will be taken as part of the profits of the manor in respect of which the lord is to be charged (*g*).

An advowson or church patronage is not liable to the duty unless some right of presentation or other interest in the advowson be disposed of for money or money's worth, in which case the party at the time of such disposal will be liable to succession duty on the amount of the benefit received (*h*).

Every past or future disposition of property, whether real or personal, by reason whereof any person has or shall become beneficially entitled to any property, either real or personal, or the income thereof upon the death of any person dying after the 19th May, 1853, either immediately or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and every devolution by law of any beneficial interest in property, or the income thereof, upon the death of any person dying after the 19th May, 1853, to any other person, in possession or expectancy, shall

What dispositions and devolutions of property shall confer successions.

(*e*) *Taylor v. Martindale*, 12 Sim. 158.

(*f*) See *Williams on Personal Property*, 156, 165, 2nd edition.

(*g*) 16 & 17 Vict. sect. 26.

(*h*) *Ib.* sect. 24.

Definition of
"Successor,"
"Predecessor."

be deemed to have conferred or to confer on the person entitled by reason of any such disposition or devolution a "succession;" and the term "successor" shall denote the person so entitled; and the term "predecessor" shall denote the settlor, disponent, testator, obligor, ancestor or other person from whom the interest of the successor is or shall be derived (i).

Provision for
life policies
and certain
post obit
bonds.

No policy of insurance on the life of any person shall create the relation of predecessor and successor between the insurers and assured, or between the insurers and any assignee of the assured, for a valuable consideration in money or money's worth, and no bond or contract made by any person *bonâ fide* for valuable consideration in money or money's worth, for the payment of money or money's worth after the death of any other person, shall create the relation of predecessor and successor between the person making such bond or contract and the person to or with whom the same shall be made; but any disposition or devolution of the monies payable under such policy, bond, or contract, if otherwise such as in itself to create a succession within the act, shall be deemed to confer a succession (k).

Joint tenants
taking by
survivorship
to be deemed
successors.

Where any persons shall, at or after the 19th May, 1853, have any property vested in them jointly, by any title not conferring on them a succession, any beneficial interest in such property accruing to any of them by survivorship shall be deemed to be a succession; and every person to whom any such interest shall accrue shall be deemed to be the successor; and the person upon whose

(i) 16 & 17 Vict. c. 51, ss. 1, 2.

(k) *Id.* s. 17.

death such accruer shall take place shall be deemed to be the predecessor; and where any persons after the 19th May, 1853, shall take any succession jointly, they shall pay the duty, if any, chargeable thereon in proportion to their respective interests in the succession; and any beneficial interest in such succession, accruing to any of them by survivorship, shall be deemed to be a new succession, derived from the predecessor from whom the joint title shall have been derived (1).

Where real estate is limited to two or more persons and their heirs, or where a legacy or the residue of personal estate is given to two or more legatees, without any words of severance or distribution, such persons take as joint tenants (m). An important incident to an estate in joint tenancy is the right of survivorship, the consequence of which is, that on the death of one of the joint tenants without having severed the tenancy his interest in the property does not go to his heir or personal representative, but accrues to the surviving joint tenant or joint tenants. Where two or more persons purchase lands and advance the money in equal proportions and take the conveyance to them and their heirs this is a joint tenancy; that is, a purchase by them jointly of the chance of survivorship, which may happen to them as well as to the other (n); but where the proportions of the money are not equal, and this appears in the deed itself, this makes them in the nature of partners,

Creation of
estate in
joint
tenancy.

(1) 16 & 17 Vict. c. 51, s. 3.

(m) *Campbell v. Campbell*, 4 Br. C. C. 15; *Swaime v. Burton*, 15 Ves. 571; *Webster v. Webster*, 2 P. Wms. 347.

(n) See *Moyse v. Gyles*, 2 Vern. 385; *York v. Eaton*, 2 Freem. 23; *Thicknesse v. Vernon*, 2 Freem. 84; *Anon. Carth.* 15; and see 3 Atk. 735; 2 Ves. sen. 258; *Aveling v. Knipe*, 19 Ves. 441.

and however the legal estate may survive, yet the survivor shall be considered as a trustee for the others in proportion to the sums advanced by each of them (*o*); so, if two or more make a joint purchase of land and afterwards one of them expends a considerable sum in repairs and improvements, and dies, this shall be a lien on the land and a trust for the representatives of him who advances it (*p*). But the wares, merchandize, debts or duties, which joint merchants have as joint merchants or partners, shall not survive, but shall go to the executors of the deceased by the Law of Merchants, as to whom the rule is thus—*jus accrescendi inter mercatores pro beneficio commercii locum non habet* (*q*), and this rule has been extended to all trades, and as it should seem to all persons engaged in joint undertakings in the nature of trade (*r*); thus, if two take a lease of a farm jointly the lease shall survive, but the stock on the farm, though occupied jointly, shall not survive (*s*); so, where two persons advance a sum of money by way of mortgage and take the mortgage to them jointly and one of them dies when the money is paid, the survivor shall not have the whole, but the representative of the deceased mortgagee shall have his proportion (*t*).

In general when two or more become joint tenants or jointly interested in personal property by way of gift, grant, &c., then the same shall be

(*o*) Sugd. V. & P. 901, 11th edition.

(*p*) *Lake v. Gibson*, 1 Eq. Cas. Abr. 291, pl. 3. See *Lake v. Craddock*, 3 P. Wms. 158; *Lyster v. Dolland*, 1 Ves. jun. 434; *Dale v. Hamilton*, 5 Hare, 369, 384.

(*q*) Co. Litt. 182 b.; *Rex v. Collectors of Customs*, 2 Mau. & S. 225.

(*r*) *Hamond v. Jethro*, 2 Brownl. & Gold. 99.

(*s*) *Jeffereys v. Small*, 1 Vern.

(*t*) *Morley v. Bird*, 3 Ves. 631; *Petty v. Styward*, 1 Chanc. Rep. 31.

subject to all the consequences of law of survivorship, except from the nature of the contract or from the words of the instrument a contrary intention can be collected (u). In the case of *Morris v. Barret* (x), the residue of real and personal estate was devised by a testator to his two sons as joint tenants and the two sons after the father's decease, and during the period of twenty years, carried on the business of farmers with such estate, and kept the monies arising therefrom in one common stock, and with part of such monies purchased other estates in the name of one of them, but never in any manner entered into any agreement respecting such farming business or ever accounted with each other; it was held, under the circumstances, that they continued till the death of one of them joint tenants of all the property that passed by the will of their father, but were tenants in common of the after-purchased estates.

A testator by his will devised his real estates to his three nieces equally between them to take as joint tenants and their several and respective heirs and assigns for ever. It was held, that they took estates as joint tenants for life with several inheritances on the death of the survivor (y). A testatrix devised her real estate as follows:—"I give and bequeath the same unto my husband's nieces Martha and Jane to hold to them, their heirs and assigns for ever, but in case the said Martha and Jane shall both die without issue, then I give and bequeath the same to E. H. and A. G., to hold to them, their heirs and assigns for ever, as tenants in common."

(u) *Morley v. Bird*, 3 Ves. 631; 1 Vern. 217.

(x) 3 Young & Jerv. 384.

(y) *Doe d. Littlewood v. Green*, 4 Mees. & W. 229.

It was held, that Martha and Jane were joint tenants for life with several inheritances, and that therefore, on the death of Martha, Jane became entitled to the property during her life, and after her death without issue the estate vested in the plaintiffs, the daughter and grandson of Martha (z).

Under the following bequest, "All my lawful debts to be paid and the remainder for my daughter, and at her decease to be left to her children;" it was held, that the children took as joint tenants (a).

Of a tenancy
by entireties.

Where an estate is conveyed or devised to a man and his wife during coverture, by such words as would make two other persons joint tenants, they are said to be tenants by entireties; that is, each is said to be seised of the whole estate and neither of a part (b). The consequence is, that the husband's conveyance alone will not have any effect against his wife surviving (c). The husband being seised of the whole estate during coverture, either in his own right or in right of his wife, can of course depart with that interest, but to make a complete conveyance and all the interest held in entirety, the wife must concur, and, being under coverture, she must join in a deed to be duly acknowledged; so that no estate by entireties can be severed or conveyed without such a deed, if it confer a right to the freehold. Joint tenants are seised *per mie et per tout*; tenants by entireties are seised *per tout* only (d). Under a joint tenancy one moiety merely survives, the surviving joint tenant being already seised of

(z) *Forrest v. Whitway*, 3 Exch. 367.

(a) *Meuce v. Bagster*, 4 De G. & S. 162.

(b) *Green v. King*, 2 Bl. R. 1211.

(c) *Doe v. Wilson*, 4 B. & Ald. 303.

(d) Co. Litt. 186 a

the other moiety. Under a tenancy by entireties there is in fact no survivorship, as the whole is in each tenant during coverture as much as it is in the survivor after it has ceased. The survivor takes the whole by original limitation and not by the occurrence of a subsequent event; but, although there is in fact no survivorship, the effect is that the surviving husband or wife takes the whole estate, not as a new acquisition but as an estate freed from participation in by another. As a consequence of this peculiar tenancy, if a grant be made to three persons, two being husband and wife, the husband and wife take one moiety and the stranger the other moiety, as between themselves they hold in joint tenancy (*e*); but to enable the stranger to take by survivorship, he must survive both the husband and wife, so that he has one chance against two. Under a bequest to A. B., his wife and children, there being two, a joint tenancy is created, but the husband and wife take only one-third between them (*f*).

A gift to a man and woman who afterwards intermarry does not make them tenants by entireties (*g*). They are joint tenants both before and after marriage, and the husband alone may in that case sever the joint tenancy by alienating his moiety (*h*).

An estate held in coparcenary is where lands of Coparceners. inheritance descend from the ancestor to two or more persons, coparceners though they have an *unity* have not an *entirety* of interest. They are properly entitled each to the whole of a distinct moiety, and there is no right of survivorship between them for

(*e*) *Doe v. Parratt*, 5 T. R. 652.

(*f*) *Gordon v. Whieldon*, 11 Beav. 170; 18 Law J., Ch., 5; 12 Jur. 988.

(*g*) Co. Litt. 187 b.

(*h*) *Moody v. Moody*, Ambl. 649.

each part descends severally to their respective heirs, though the moiety of possession continues (*i*).

Tenants in common.

Tenants in common also properly take by distinct moieties and have an entirety of interest, and therefore there is no survivorship between tenants in common (*k*).

Tenant in tail after possibility of issue extinct.

The estate of tenant in tail, after possibility of issue extinct, arises when lands are limited in special tail, and one of the parties from whom the issue are to proceed dies without issue; as, if lands are limited to a man and woman, whether before or after marriage, and the heirs of their two bodies, and one of them dies without issue, or having left issue, that issue becomes extinct, the survivor is tenant in tail after possibility of issue extinct (*l*). It is said that tenant in tail, after possibility of issue extinct, pays no duty on the commencement of his estate, because, although it commences upon the death of another, yet he has but the same estate for his life which he before had in tail; as to the party himself there is no alteration in the estate he held and holds, the difference is merely in the continuance of it after his death. And it is the same in the case of tenant by the curtesy of England (*m*).

General powers of appointment to confer successions.

Where any person shall have a general power of appointment, under any disposition of property taking effect upon the death of any person dying after the 19th of May, 1853, over property, he shall, in the event of his making any appointment thereunder, be deemed to be entitled, at the time of his exercising such power, to the property

(*i*) 2 Bl. Comm. 187, 188.

(*k*) 2 Bl. Comm. 194.

(*l*) See 2 Bl. Comm. 124.

(*m*) Arch. Succession Duty Act, 1853, p. 4.

or interest thereby appointed as a succession derived from the donor of the power (n).

Where the donee of a general power of appointment shall become chargeable with duty in respect of the property appointed by him under such power, he shall be allowed to deduct from the duty so payable any duty he may have already paid in respect of any limited interest taken by him in such property (o).

Allowance to donee of general power of appointment.

By a general power of appointment is understood that kind of power which enables the party to appoint the estate to any person he thinks proper; and in this sense it is opposed to a qualified or particular power which enables the party to appoint to or among particular objects only as a power of appointing to his children or the children of any other person (p).

Where any person shall have a limited power of appointment, under a disposition taking effect upon the death of any person dying after the 19th of May, 1853, over property, any person taking any property by the exercise of such power shall be deemed to take the same as a succession derived from the person creating the power as predecessor (q).

Succession under limited power.

Where the successor shall derive his succession from more predecessors than one, and the proportional interest derived from each of them shall not be distinguishable, the commissioners may agree with the successor as to the duty payable; but if no such agreement shall be made, the successor shall be deemed to have derived his succession in

Provision as to joint predecessors.

(n) 16 & 17 Vict. c. 51, s. 4.

(o) *Ib.* s. 33.

(p) Co. Litt. 271 b, Butl. n.

(q) 16 & 17 Vict. c. 51, s. 4. See *post*, p. 250, n. (d).

equal proportions from each predecessor, and shall be chargeable with duty accordingly (r).

Extinction of determinable charges to confer successions.

Where any property shall at or after the 19th of May, 1853, be subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or persons upon the extinction or determination of such charge, estate or interest shall be deemed to be a succession accruing to the person, or the persons if more than one, then entitled beneficially to the property or the income thereof, according to his or their respective estates or interests therein, or beneficial enjoyment thereof; and the person or persons from whom such successor or successors respectively shall have derived title to the property so charged shall be deemed to be the predecessor or predecessors, as the case may be (s).

Dispositions accompanied by the reservation of a benefit to the maker to confer successions.

Where any disposition of property, not being a *bonâ fide* sale, and not conferring an interest expectant on death on the person in whose favour the same shall be made, shall be accompanied by the reservation or assurance of or contract for any benefit to the grantor, or any other person, for any term of life or for any period ascertainable only by reference to death, such disposition shall be deemed to confer at the time appointed for the determination of such benefit an increase of beneficial interest in such property, as a succession equal in annual value to the yearly amount or yearly value of the benefit so reserved, assured or contracted for, on the person in whose favour such disposition shall be made (t).

Dispositions to take effect

Any disposition of property made to take effect

(r) 16 & 17 Vict. c. 51, s. 13.

(s) *Ib.* s. 5; see also s. 12.

(t) *Ib.* s. 7.

at a period ascertainable only by reference to the date of the death of any person dying after the 19th of May, 1853, is to confer a succession on the person in whose favour the same shall be made.

at periods depending on death, or made for evading duty, to confer successions.

And the act contains provisions as to dispositions made for the purpose of evading the duty (u).

Any person taking a succession under a disposition made by himself of property to which he was entitled expectantly on the death of any person dying after the 19th of May, 1853, and during the continuance of such disposition, shall be chargeable with duty on his succession, at the same rate as he would have been chargeable with if no such disposition had been made; but a successor shall not in any *other* case be chargeable with duty upon a succession taken under a disposition made by himself, and no person shall be chargeable with duty upon the extinction or determination of any charge, estate or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto expectantly on the death of some person dying after the 19th of May, 1853 (x).

What duties payable when the successor is also the predecessor.

Where property shall become subject to a trust for any charitable or public purposes under any past or future disposition, which if made in favour of an individual would confer on him a succession, there shall be payable in respect of such property upon its becoming subject to such trusts a duty at the rate of 10l. per cent. upon the amount or principal value of such property, and the trustee of any such property may raise the amount of any duty due in respect thereof with all reasonable expenses upon

Succession subject to trusts for charitable or public purposes chargeable with duty.

(u) 16 & 17 Vict. c. 51, s. 8.

(x) *Ib.* s. 12. See *post*.

Duties payable in respect of transferred interests.

the security of the charity property at interest, with power for him to give effectual discharges for the money so raised (*y*).

Where, on the 19th of May, 1853, any reversionary property expectant on death shall be vested, by alienation or other derivative title, in any person other than the person who shall have been originally entitled thereto under any such disposition or devolution as is mentioned in the second section of the act (*z*), then the person in whom such property shall be so vested shall be chargeable with duty in respect thereof as a succession at the same time and at the same rate as the person so originally entitled would have been chargeable with if no such alienation had been made or derivative title created (*a*).

Where, after the 19th of May, 1853, any succession shall, before the successor shall have become entitled thereto or to the income thereof in possession, have become vested by alienation or by any title not conferring a new succession in any other person, then the duty payable in respect thereof shall be paid at the same rate and time as the same would have been payable if no such alienation had been made or derivative title created (*b*).

Where the title to any succession shall be accelerated by the surrender or extinction of any prior interests, then the duty thereon shall be payable at the same time and in the same manner as such duty would have been payable if no such acceleration had taken place (*c*). The duty is payable at the time when the successor or any person in his right

(*y*) 16 & 17 Vict. c. 51, s. 14. As to the legacy duty on bequests to charities, see *ante*, pp. 163—165.

(*z*) *Ante*, pp. 211, 212.

(*a*) 16 & 17 Vict. c. 51, s. 15.

(*b*) *Ib.*

(*c*) *Ib.*

shall become entitled in possession to this succession or to the receipt of the income and property thereof (*d*).

Every person in whom property, subject to succession duty, shall be vested by alienation or other derivative title, is accountable for the duty at the time of the succession becoming an interest in possession (*e*).

SECTION II.—*Amount of Duties on Successions.*

It has already appeared that under the Legacy Duty Acts the amount of duty to be paid is regulated by the degree of relationship between the testator or intestate, and the party to whom his property shall be given, or upon whom it shall have devolved (*f*). The amount of the succession duty is in like manner regulated by the degree of relationship existing between the *predecessor*, that is, the settlor, testator, obligor, ancestor or other person from whom the property or succession is derived, and the person becoming beneficially entitled to it upon the death of another who is called the successor.

In respect of every succession, according to the value thereof, the following duties are imposed (that is to say):—

Where the successor shall be the lineal issue or lineal ancestor of the predecessor, a duty at the rate of 1*l.* per cent. upon such value:

Where the successor shall be a brother or sister, or a descendant of a brother or sister of the predecessor, a duty at the rate of 3*l.* per cent. upon such value:

(*d*) 16 & 17 Vict. c. 51, s. 20.

(*e*) *Ib.* s. 44.

(*f*) *Ante*, p. 82.

Of the Succession Duty.

Where the successor shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the predecessor, a duty at the rate of 5*l.* per cent. upon such value :

Where the successor shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the predecessor, a duty at the rate of 6*l.* per cent. upon such value :

Where the successor shall be in any other degree of collateral consanguinity to the predecessor than is hereinbefore described, or shall be a stranger in blood to him, a duty at the rate of 10*l.* per cent. upon such value (*g*).

The rates of duty are the same as those payable on legacies, and with reference to the same degrees of consanguinity (*h*).

The duties granted by the act are placed under the care and management of the Commissioners of Inland Revenue, to whom are given the same powers and authorities for the collection, recovery and management thereof as are vested in them by the 12 & 13 Vict. c. 1 (*i*).

Provision as to married persons chargeable with succession duty.

Where any person chargeable with duty under the act in respect to any succession shall have been married to any wife or husband of nearer consanguinity than himself or herself to the predecessor, then the person taking such succession shall pay in respect thereof the same rate of duty only as such

(*g*) 16 & 17 Vict. c. 51, s. 10.

(*h*) 55 Geo. 3, c. 184, *ante*, p. 82.

(*i*) 16 & 17 Vict. c. 51, s. 9. See *post*, pp. 253—255.

his or her wife or husband would have been chargeable with if she or he had taken the same (j).

SECTION III.—Of Exemptions from the Succession Duty.

Where the whole succession or successions derived from the same predecessor and passing upon any death to any person or persons shall not amount in money or principal value to the sum of 100*l.*, no duty shall be payable under the act in respect thereof, or of any portion thereof. *Exemptions.*

No duty shall be payable under the act upon any succession, which, as estimated according to the provisions of this act, shall be of less value than 20*l.* in the whole, or upon any monies applied to the payment of the duty on any succession according to any trust for that purpose.

No duty is payable by any person in respect of a succession, who, if the same were a legacy bequeathed to him by the predecessor, would be exempted from the payment of duty in respect thereof under the Legacy Duty Acts. Money left to pay legacy duty is not chargeable with legacy duty (k). The 36 Geo. 3, c. 52, s. 2, and 45 Geo. 3, c. 28, s. 3, provide, that nothing therein contained shall extend to charge with any duty any legacy, or any residue or part of a residue of any personal estate which shall be given or shall pass to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the

(j) 16 & 17 Vict. c. 51, s. 11; as to legacies, see *ante*, p. 171.

(k) 36 Geo. 3, c. 52, s. 21, *ante*, p. 101.

royal family. The 55 Geo. 3, c. 184, Sched., Part 3, contains a similar exemption. The 39 Geo. 3, c. 73 (1), exempts successions, consisting of books and other articles therein mentioned, which are given to bodies corporate and other societies. The Irish Act, 56 Geo. 3, c. 56, exempts from legacy duty bequests for the education or maintenance of poor children in Ireland, or to be applied in support of any charitable institution in Ireland, or for any purpose merely charitable.

No person shall be charged with duty under the act in respect of any interest surrendered by him or extinguished before the 19th May, 1853.

No person charged with the duties on legacies and shares of personal estate under the Legacy Duty Acts, in respect of any property subject to such duties, shall be charged also with the duty granted by the Succession Duty Act in respect of the same acquisition of the same property (*m*).

The 8 & 9 Vict. c. 76, s. 4, provides, that no sum of money which by any marriage settlement is or shall be subjected to any limited power of appointment to or for the benefit of any person or persons therein specially named or described as the object or objects of such power, or to or for the benefit of the issue of any such person or persons, shall be liable to the duties on legacies under the will in which such sum is or shall be appointed or apportioned in exercise of such limited power.

Assuming the last proviso to remain in force, it will be applicable to portions charged on an estate by a marriage settlement, or to a sum of money which by any marriage settlement is payable amongst the

(1) *Ante*, p. 83.

(m) 16 & 17 Vict. c. 51, s. 18.

children of the marriage as the father shall by will appoint, and he executes such power by will in favour of one or more of his children.

No person entitled, on 19th May, 1853, to the immediate reversion in any real property expectant upon the determination of any lease for life or for years determinable on life, shall be chargeable with duty in respect of such determination, in the event of the same occurring in his lifetime (n).

Persons now beneficially entitled to real property subject to leases for life, not liable to duty.

No duty shall be payable upon the determination of any lease purporting, at the date thereof, to be a lease at such rent in respect of the increase accruing to the successor upon such determination (o).

And no person shall be chargeable with duty upon the extinction or determination of any charge, estate or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto *expectantly* on the death of some person dying after the 19th May, 1853 (p).



SECTION IV.—*How Real Property is chargeable.*

The interest of every successor in real property (with certain exceptions (q)) shall be considered of the value of an annuity equal to the annual value of such property after making certain allowances as provided by the 22, 26, 28, 33, 34, 36 and 38 sections, and payable from the date of his becoming entitled thereto in possession, or to the receipt of the income or profit thereof during the residue

The interest of a successor in real property considered as an annuity.

(n) 16 & 17 Vict. c. 51, s. 6.

(o) *Ib.* s. 20.

(p) *Ib.* s. 12.

(q) See ss. 16, 20, 23, 24, 25.

of his life, or for any less period during which he shall be entitled thereto (r).

Rules for
valuing
lands,
houses, &c.

In estimating the annual value of lands used for agricultural purposes, houses, buildings, tithes, teinds, rent-charges and other property yielding or capable of yielding income not of a fluctuating character, an allowance shall be made of all necessary outgoings (s).

Allowance
for fines, &c.
paid by suc-
cessor.

If a successor, or any person on his behalf, upon becoming entitled to any copyhold or other real property shall be subject to any fines, casualties of superiority, compositions, reliefs or charges incident to the tenure thereof, and due in respect of his succession, he shall be entitled to have a deduction allowed to him of the amount of such fines, casualties, compositions, reliefs or charges from the assessable value of his interest in such copyhold or other real property (t).

What allow-
ance to be
made for in-
cumbrances.

In estimating the value of a succession no allowance shall be made in respect of any incumbrance thereon created or incurred by the successor, not made in execution of a prior special power of appointment, but an allowance shall be made in respect of all other incumbrances, and also in respect of any monies which the successor may previously to his possession have laid out in the substantial repairs or permanent improvement of real property comprised in his succession; provided that upon any successor becoming entitled to real property subject to any prior principal charge, an allowance shall be made to him in respect only of the yearly sums payable by way of interest or other-

(r) 16 & 17 Vict. c. 51, s. 21.

(s) *Ib.* s. 22.

(t) *Ib.* s. 23.

wise on such charge as reducing the annual value *pro tanto* of such real property (u).

In estimating the value of a succession no allowance shall be made in respect of any contingent incumbrance thereon; but in the event of such incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of the duty so paid by him in respect of the amount or value of the incumbrance when taking effect (v).

No allowance to be made in respect of contingent incumbrances, unless they take effect.

In estimating the value of a succession no allowance shall be made in respect of any contingency upon the happening of which the property may pass to some other person; but in the event of the same so passing the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest (w).

The duty on successions to be calculated without regard to contingencies.

Where any successor upon taking a succession shall be bound to relinquish or be deprived of any other property, the commissioners shall, upon the computation of the assessable value of his succession, make such allowance to him as may be just in respect of the value of such property (x).

Allowance to be made to successor in respect of relinquished property.

The amount of the annual value after making the allowances having been ascertained, the annuity is to be valued according to the tables annexed to the act. The duty chargeable thereon shall be paid by eight equal half-yearly instalments, the first of

The duty on real property to be payable by instalments.

(u) 16 & 17 Vict. c. 51, s. 34.

(v) *Ib.* s. 35.

(w) *Ib.* s. 36.

(x) *Ib.* s. 38.

such instalments to be paid at the expiration of twelve months next after the successor shall have become entitled to the beneficial enjoyment of the real property in respect whereof the same shall be payable, and the seven following instalments at half-yearly intervals of six months, each to be computed from the day on which the first instalment shall have become due, provided that if the successor shall die before all such instalments shall have become due, then any instalments not due at his decease shall cease to be payable, except in the case of a successor who shall have been competent to dispose by will of a continuing interest in such property, in which case the instalments unpaid at his death shall be a continuing charge on such interest, in exoneration of his other property, and shall be payable by the owner for the time being of such interest (y).

SECTION V.—*Special Provisions as to certain Interests in Real Property.*

Rule as to
timber.

Where timber, not being coppice of underwood, shall be comprised in any succession, the successor is chargeable with duty upon his interest in the net monies which shall from time to time be received from any sales of such timber, and shall account for and pay the same yearly; provided, that if the successor shall be desirous of commuting the duty, and shall deliver to the commissioners an estimate of the net monies obtainable by him from the sale of such timber, as may, in a prudent course of manage-

ment of the property, be felled by such successor during his life, the commissioners, if satisfied with such estimate, shall accept the same and assess the duty accordingly; but no duty shall be payable on the net monies received from the sale of timber in any one year unless such net monies shall exceed the sum of ten pounds(*x*).

A successor shall not be chargeable with duty in respect of any advowson or church patronage comprised in his succession, unless the same, or some right of presentation, or some other interest in or out of such advowson or church patronage, shall be disposed of by or in concert with him for money or money's worth, in which case he shall be chargeable with duty upon the amount or value of the money or money's worth, for which the same or any such presentation or interest shall be so disposed of at the time of such disposal (*a*). Rule as to advowsons.

Where a successor, entitled to any real property, subject to any lease by reason whereof he shall not be presently entitled to the full enjoyment thereof, shall not have paid duty in respect of the full yearly value of such property, he shall be chargeable with duty upon his interest in any fine or other consideration which may be received during his life for the renewal of any such lease, or the grant of any reversionary lease of the same property (*b*). Rule as to property subject to beneficial leases.

The yearly value of any manor, opened mine, or other real property of a fluctuating yearly income shall either be calculated upon the average profits or income derived therefrom, after deducting all necessary outgoings, during such a number of Rule as to manors, mines, &c.

(*x*) 16 & 17 Vict. c. 51, s. 23. *Post*, pp. 262, 263.

(*a*) *Ib.* s. 24.

(*b*) *Ib.* s. 25.

preceding years as shall be agreed upon for this purpose between the commissioners and the successor, before the first payment of duty on the succession shall have become due; or, if no such period shall be agreed upon, then the principal value of such property shall be ascertained, and the annual value thereof shall be considered to be equal to interest calculated at the rate of 3*l.* per cent. per annum on the amount of such principal value (c).

Duty payable by corporations, taking real estates.

Where any body corporate, company, or society shall become entitled, as successors, to any real property, the duty in respect thereof shall be assessed upon the principal value of such property, but shall be payable by such instalments, at such times, and in such manner as the same would be payable if assessed in respect of property devolving on a successor in fee simple (d), and it shall be lawful for such body corporate, company, or society, or any trustee thereof, to raise the amount of any duty due in respect of their succession upon the security thereof, at interest, with power for them to give effectual discharges for the money so raised (e).

Duties on outstanding interests when payable.

The duties are generally payable by the successor on his becoming entitled to the possession or income of the succession, except that if there shall be any prior charge, estate or interest not created by the successor himself, upon or in the succession, by reason whereof the successor shall not be presently entitled to the full enjoyment or value thereof, the duty in respect of the increased value accruing upon the determination of such charge, estate or interest

(c) 16 & 17 Vict. c. 51, s. 26.

(d) See sect. 21, *ante*, p. 230.

(e) *Ib.* s. 27.

shall, if not previously paid, compounded for, or commuted, be paid at the time of such determination; and except that in case of an annuity, or property hereby made chargeable as an annuity, the duties shall be paid by such instalments as have been already mentioned (*f*).

SECTION VI.—*How Personal Property is chargeable.*

The Legacy Duty Acts imposed a duty on every legacy, specific or pecuniary, of the value of 20*l.* or upwards, given by *will* or testamentary instrument, on the personal property undisposed of by will, and on the residue of the personal estate of an intestate (*g*). But the succession duty is imposed on all beneficial interests in personal property to which a person may become entitled upon the death of another happening after the 19th May, 1853, whether by will or by *deed*. The assessment and payment of duty on personal estate comprised in any succession, is, in certain cases, to be made in the same way as if such personal property were a legacy bequeathed by the predecessor to the successor. But the value of any annuity or of any interest chargeable as an annuity is to be made according to the tables in the schedule annexed to the Succession Duty Act, 1853 (*h*). But no person charged with duties on legacies and shares of personal estate under the Legacy Duty Acts in re-

(*f*) 16 & 17 Vict. c. 51, s. 20; see *ante*, s. 21, pp. 229, 230.

(*g*) 36 Geo. 3, c. 52, ss. 2, 6, *ante*, pp. 84, 86; 45 Geo. 3, c. 28, *ante*, p. 123; 55 Geo. 3, c. 184, *ante*, pp. 80—82.

(*h*) 16 & 17 Vict. c. 51, ss. 31, 32.

spect of any property subject to such duties, shall be chargeable also with the succession duty in respect of the same acquisition of the same property (i).

The interest of any successor in monies to arise from the sale of real estate under any trust for the sale thereof, so far as the same shall not be chargeable under the Legacy Duty Acts shall be deemed *personal property* chargeable with succession duty, unless there be a trust for re-investment in real property, when it will be chargeable as such (k).

The interest of any successor in personal property, subject to any trust for the investment thereof in the purchase of real estate, to which the successor would be absolutely entitled, shall, so far as the same shall not be chargeable with duty under the Legacy Duty Acts, be chargeable with succession duty (l).

Leasehold estates not to be charged with legacy duty as personal estate.

No legatee or other person shall, after the 19th May, 1853, be chargeable under the legacy duty acts with duty, not then already due, in respect of any leasehold hereditaments of any testator or deceased person, as belonging to the personal estate of the testator or deceased (m).

Where the succession confers an absolute interest in personal property, as in a sum in gross payable immediately, the full value of it is liable to the duty, which is payable when the property or any part thereof is paid to or retained for the successor (n). Where the succession confers a life interest or is in the form of an annuity, it is to be

(i) 16 & 17 Vict. c. 51, s. 18.

(k) *Ib.* s. 29.

(l) *Ib.* s. 30.

(m) *Ib.* s. 19.

(n) *Ib.* s. 20.

valued in the same manner as a legacy given in a similar manner under the Legacy Duty Acts. The duty in this case is payable by four equal yearly instalments, the first to be paid twelve months after the successor shall have been entitled in possession, and the three following instalments at intervals of one year each.

The value of any succession given by way of annuity, whether payable annually or otherwise, for any life or lives or for years determinable on any life or lives, or for years or other periods of time, shall be charged according to tables in the schedule annexed to the Succession Duty Act, and the duty shall be paid by four equal payments, the first of which payments shall be made before or on completing the payment of the first year's annuity, and the three others of such payments of duty shall be made in like manner successively before or on completing the respective payments of the three succeeding years' annuity respectively; and the value of such annuity, if determinable upon any contingency besides the death of any person, shall be calculated without regard to such contingency. If such annuity determine by death before four years payment shall become due, then the duty shall be payable in proportion only to so many of the payments as actually became due; and in case such annuity shall determine upon any other contingency, then not only all payments of duty which would otherwise become due shall cease, but the person who shall have paid any duties which shall have previously become due may obtain a return of so much duty as will reduce the same to the like duty as would have been payable for such annuity calculated according to the term for which the same shall have endured, which

Value of annuities and the duty to be calculated by the tables.

abatement the commissioners shall settle according to the tables in the schedule to the Succession Duty Act, 1853 (*o*).

Duty on sum given to purchase annuity.

The duty upon any sum of money taken as a succession to purchase an annuity is to be calculated upon the sum necessary to purchase such annuity according to the tables before mentioned, and to be deducted from such sum and paid as in the case of other pecuniary legacies, and the annuity to be purchased will be reduced in proportion to the duty payable thereon (*p*).

Duty on successions, whose value is not ascertained.

If any benefit be given in such terms that the amount or value can only be ascertained from time to time by the actual application of the fund allotted to or charged with it, or if the amount or value of any benefit cannot by reason of the form or manner of the gift be charged under any other of the directions contained in 36 Geo. 3, c. 52, the duty shall be charged on the money or effects applied for the purposes of the gift, as separate and distinct successions (*q*).

On succession to be enjoyed successively.

The duty on a succession to be enjoyed by different persons in succession who shall be chargeable with the duties at the same rate shall be paid as in the case of a succession to one person; and where any succession given so that the same shall be enjoyed by different persons in succession, some of whom shall be chargeable with no duty, or some of whom shall be chargeable with different rates of duty, so that one rate of duty cannot be im-

(*o*) 36 Geo. 3, c. 52, s. 8, *ante*, pp. 89—91; 16 & 17 Vict. c. 51, ss. 31, 32.

(*p*) 36 Geo. 3, c. 52, s. 10, *ante*, p. 92; 16 & 17 Vict. c. 51, s. 32.

(*q*) 36 Geo. 3, c. 52, s. 11, *ante*, p. 92; 16 & 17 Vict. c. 51, s. 32.

diately charged, all persons who shall be entitled for life only or any other temporary interest, shall be chargeable with the duty in respect of such bequest, in the same manner as if the annual produce thereof had been given by way of annuity, and such persons respectively shall be so chargeable with such duty, and the same shall be payable when they shall respectively become entitled to and begin to receive such produce, and shall be paid by equal portions during the term of four years if they shall so long continue to receive such produce, and all persons who shall become absolutely entitled to such legacy so to be enjoyed in succession shall, when they begin to enjoy the benefit thereof, pay the duty for the same or such part thereof of which the benefit shall be so enjoyed in the same manner as if the same had come to them immediately (*r*).

Where the interest of any successor in any personal property shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such interest, and shall be due from the successor who shall first become entitled thereto in possession; but such duty shall be at the highest rate which, if every such successor had been subject to duty, would have been payable by any one of them (*s*).

Duty on transmitted successions.

No duty shall be paid on plate, furniture or other things not yielding any income and taken as a succession till the same shall be actually sold or shall come to any persons having power to sell or having an absolute interest therein, and shall be then

On plate, &c. enjoyed in kind.

(*r*) 36 Geo. 3, c. 52, s. 12; *ante*, p. 93; 16 & 17 Vict. c. 51, s. 32.

(*s*) 16 & 17 Vict. c. 51, s. 14.

charged on that person only and not on the executor by reason of his having assented to such bequests (*t*).

Succession
not satisfied
with money.

Where a succession shall be satisfied otherwise than by payment of money or application of specific effects for that purpose, or shall be released for consideration or compounded for less than the amount thereof, the duty shall be paid according to the amount or value of the property taken in satisfaction thereof, or as the consideration for release thereof or composition for the same succession (*u*).

Allowances.

In estimating the value of the succession no allowance is to be made in respect of any incumbrance created by the successor, not made in execution of a prior special power of appointment, but an allowance is to be made in respect of all other incumbrances (*x*). No allowance is to be made in respect of a contingent incumbrance, but if it take effect a proportionate part of the duty is to be returned (*y*). The duty is also to be calculated without regard to any contingency whereby the property may pass to some other person, unless it should happen, in which case a part of the duty is to be returned (*z*). An allowance is to be made to the successor in respect of property which he shall be bound to relinquish upon taking his succession (*a*).

(*t*) 36 Geo. 3, c. 52, s. 14, *ante*, p. 96; 16 & 17 Vict. c. 51, s. 32.

(*u*) 36 Geo. 3, c. 52, s. 23, *ante*, p. 105; 16 & 17 Vict. c. 51, s. 32.

(*x*) 16 & 17 Vict. c. 51, s. 34, *ante*, pp. 228, 229.

(*y*) *Ib.* s. 35, *ante*, p. 229.

(*z*) *Ib.* s. 36, *ante*, p. 229.

(*a*) *Ib.* s. 38, *ante*, p. 229.



SECTION VII.—*Proceedings for the Assessment of Real and Personal Property.*

The persons made accountable for the payment of duty in respect of any succession, who besides the successor are trustees and others in whom any property, or the management of any property subject to such duty is vested, or some of them, shall, in the case of personal property, at the time of the first payment, delivery, retainer, satisfaction, or other discharge of the same or any part thereof to or for the successor or any person in his right, and in the case of real property when any duty in respect thereof shall first become payable, give notice to the commissioners or to their officers of their liability to such duty, and shall at the same time deliver to the commissioners or to their officers a full and true account of the property for the duty whereon they shall respectively be accountable, and of the value thereof, and of the deductions claimed by them, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the commissioners fully and correctly to ascertain the duties due; and the commissioners, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein, upon their requisition may assess the succession duty on the footing of such account and estimate (b).

Notice of succession to be given to the commissioners, and a return of the property made.

The commissioners, if dissatisfied with such account and estimate, may cause an account and estimate to be taken by any person or persons to be appointed by themselves for that purpose, and may assess the duty on the footing of such last-men-

(b) 16 & 17 Vict. c. 51, ss. 44, 45.

tioned account and estimate, subject to appeal, as provided by the 50th section. The expenses of any appeal are provided for (e).

Provision for the separate assessments of properties.

The commissioners shall, at the request of any successor, or any person claiming in his right, accept or cause to be made so many separate assessments of the duty payable in respect of the interest of the successor in any separate properties, or in defined portions of the same property, as shall be reasonably required; and in such cases the respective properties shall be chargeable only with the amount of duty separately assessed in respect thereof; and the commissioners may issue their certificates (d).

Penalty on not giving notices of succession.

If any person required to give any such notice or deliver such account as aforesaid shall wilfully neglect to do so at the prescribed period, he will become liable to the penalties imposed by the 46th section.

Proceeding if return not made.

If any accountable party required by the commissioners to deliver any such account as aforesaid shall make default in doing so, the commissioners may sue out of the Court of Exchequer a writ of summons, commanding the party so in default to deliver such account within such period as may be appointed in the writ, or to show cause to the contrary (e).

The commissioners may, in like manner, enforce the delivery of accounts from executors, administrators and trustees of property and legatees chargeable with duty under the Legacy Duty Acts (f).

The accounting party is to verify his account by production of books and documents, and the commissioners may inspect public books without fee (g).

(e) 16 & 17 Vict. c. 51, s. 45.

(d) *Ib.* s. 43.

(e) *Ib.* s. 47. See form of writ, *post.*

(f) *Ib.* s. 48.

(g) *Ib.* s. 49.

Any accountable party dissatisfied with the assessment of the commissioners, upon giving, within twenty-one days after the date of such assessment, notice in writing to the commissioners of his intention to appeal against such assessment, and a statement of the grounds of such appeal, such statement to be furnished within the further period of thirty days, may appeal by petition to the Court of Exchequer, and such court, or a judge thereof at chambers, may determine the matter and award costs, and order any inquiry, valuation or report to be made by any officer of the court or other person. Where the sum payable for duty on such assessment does not exceed 50*l.*, the accountable party may, in like manner, appeal to the judge of the County Court in England, the Sheriff Court in Scotland, or the Assistant Barrister's Court in Ireland, for the district, county or division in which the appellant shall be resident, or the property be situate, with the same power as is given to a judge of the Exchequer(*d*).

Power for accountable party to appeal.

SECTION VIII.—*Powers for the Commissioners to commute and compound Duties, to receive Duty in Advance, and to return Duty.*

The commissioners may, upon application of any person entitled to a succession in expectancy, commute the duty presumptively payable in respect of such succession for a certain sum to be presently paid, according to a valuation to be set by them upon such presumptive duty, regard being had to the contingencies affecting the liability to such duty (*e*).

Power for commissioners to commute future duties.

(*d*) 16 & 17 Vict. c. 51, s. 50.

(*e*) *Ib.* s. 39.

Power for
commission-
ers to com-
pound du-
ties.

Where, in the opinion of the commissioners, any succession shall be of such a nature, or so disposed or circumstanced, that the value thereof shall not be fairly ascertainable under any of the preceding directions, or where, from the complication of circumstances affecting the value of a succession, or affecting the assessment or recovery of the duty thereon, the commissioners may, if they think it expedient, compound the duty payable on the succession upon such terms as they shall think fit, and give discharges to the successor, upon payment of duty according to such composition; and they may, in any special cases in which they may think it expedient so to do, enlarge the time for payment of any duty (*f*).

Power of
commission-
ers to receive
duty in
advance.

The commissioners may receive any duty tendered to them in advance, and may allow discount thereon at the rate of 4l. per cent. per annum; and any payment of duty in advance will not prejudice the right to any repayment of duty to which he would otherwise become entitled (*g*).

Provision for
allowance or
return of
duty.

Where a successor shall not have obtained the whole of his succession at the time of the duty becoming payable, he shall be chargeable only with duty on the value of the property or benefit from time to time obtained by him; and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved to the satisfaction of the commissioners that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of property which the successor shall have been unable to recover, or from or of which he shall have been evicted or deprived by any superior title, or that for any

(*f*) 16 & 17 Vict. c. 51, s. 39.

(*g*) *Ib.* s. 40.

other reason it ought to be refunded, the commissioners shall thereupon refund the same to the person entitled thereto (h).

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SECTION IX.—*Provisions for securing Payment of Duty.*

The duty imposed by the act shall be a first charge on the interest of the successor, and of all persons claiming in his right, in all the real property in respect whereof such duty shall be assessed; and such duty shall also be a first charge on the interest of the successor in the personal property in respect whereof the same shall be assessed, while the same shall remain in the ownership or control of the successor, or of any trustee for him, or of his guardian or committee, or tutor or curator, or the husband of any wife who shall be the successor; and the said duty shall be a debt due to the crown from the successor, having, in the case of real property comprised in any succession, priority over all charges and interests created by him, but such duty shall not charge or affect any other real property of the successor than the property comprised in such succession; provided, that where any settled real property comprised in a succession shall be subject to any power of sale, exchange or partition, exercisable with the consent of the successor, or by the successor with the consent of another person, in such case the duty shall be charged substitutively upon the successor's interest in all real property acquired in substitution for the real property before comprised in the succession,

Duty to be a first charge on property.

(h) 16 & 17 Vict. c. 51, s. 37.

and in the meantime upon his interest also in all monies arising from the exercise of any such power, and in all investments of such monies (i).

Who liable to duty.

Other persons besides the successor are personally accountable for the duty as trustees; and other persons in whom any property, or the management of any property, subject to succession duty shall be vested, and every person in whom the same shall be vested by alienation or other derivative title at the time of the succession becoming an interest in possession (k).

If any person liable under the act to pay any duty shall, after such duty shall have been finally ascertained, wilfully neglect to do so within twenty-one days, he shall also be liable to pay a sum equal to 10*l.* per cent. upon the amount of duty so unpaid, or upon such less sum as such duty, if assessable at the rate of 1*l.* per cent. on the value of the succession, would amount to, and a like penalty for every month after the first month during which such neglect shall continue (l).

Duty to be entered by the commissioners in a book, and a stamped receipt to be given.

On payment of duty the same shall be entered in a book kept by the commissioners, and the Receiver-General of Inland Revenue, or other proper officer appointed by the commissioners, shall give a receipt stamped with the proper stamp for denoting the rate of duty, and the commissioners shall deliver to any person interested in any property affected by such duty, on application, a certificate of such payment (m).

Protection to bona fide purchasers.

Every receipt and certificate purporting to be in discharge of the whole duty payable for the time being in respect of any succession or any part

(i) 16 & 17 Vict. c. 51, s. 42.

(l) *Ib.* s. 46.

(k) *Ib.* s. 44.

(m) *Ib.* s. 51.

thereof, shall exonerate a *bond fide* purchaser for valuable consideration, and without notice, from such duty (n).

Whenever any suit shall be pending in any court for the administration of any property chargeable with duty under the Succession Duty Act or the Legacy Duty Acts, such court shall provide, out of any property which may be in the possession or control of the court, for the payment of duty to the commissioners (o).

Court in suits for the administration of property to provide for payment of duty.

By an order of the Lord Chancellor, dated the 9th of March, 1854, it is ordered, that the registrar, in drawing up any decree or order whereby the Accountant-General shall be directed to pay or transfer any fund or part of any fund in respect of which any duty shall be payable to the revenue under the acts relating to legacy or succession duty, shall, unless such decree or order expressly provide for the payment of the duty, direct the Accountant-General to have regard to the circumstance that such duty is payable, and where by any decree or order any carrying over to a separate account of any fund, in respect of which any such duty may be chargeable, shall be directed, the registrar shall add the words "subject to legacy duty" or "subject to succession duty," as the case may be, to the title of the account; and, in order the better to provide security against the payment or transfer by the Accountant-General of any fund chargeable with any such duty without the duty being first paid, the Accountant-General, on receiving notice from the proper officer that the duty is payable, is to cause a memorandum to be made in his books in conformity with such notice. And the Accountant-General, before executing any decree or order directing the payment or transfer

Order in chancery as to legacy and succession duty.

(n) 16 & 17 Vict. c. 51, s. 52.

(o) *Ib.* s. 53.

of any fund or part of any fund in respect of which any such duty shall be payable, shall require the production of the official receipt for the duty or a certificate from the proper officer of the payment of the duty chargeable in respect of any such fund or any portion thereof respectively by any such decree or order directed to be paid or transferred.

A tenant for life of a sum of stock in court, and the person entitled on his death, presented a petition for the transfer of the sum out of court and the appropriation of a sufficient part of it to meet the succession duty of 1*l.* per cent., the tenant for life offering to surrender his interest in favour of the party entitled in remainder(*p*). It was held, first, that the order might be made under the 53rd section on the leaving in court 1*l.* 10*s.* per cent. to meet the full duty subsequently payable on the death of the tenant for life, but on the party entitled in remainder giving his undertaking to pay such further sum, if any, as might afterwards be requisite for the full amount of duty. But subsequently the court recommended the parties to avail themselves of the 41st section, which enables the commissioners to commute future payments, in order that the parties might obtain the whole fund out of court at once *minus* the amount so commuted by the commissioners(*q*).

Where the Attorney-General attends in a cause, to which he is not a party, to support a claim to legacy duty upon a fund in court, and the claim fails, the crown is not entitled to costs, upon the general rule that the crown neither receives or pays costs except where they are provided for by statute(*r*).

(*p*) See 16 & 17 Vict. c. 51, s. 15. *Post*, p. 257.

(*q*) *Bailey v. Tindall*, 18 Jur. 668; 22 Law Times, 166, Ch.

(*r*) *Hobson v. Neale*, 17 Beav. 185, 186.

APPENDIX.

THE SUCCESSION DUTY ACT, 1853.

16 & 17 VICTORIA, CAP. 51.

An Act for granting to her Majesty Duties on Succession to Property, and for altering certain Provisions of the Acts charging Duties on Legacies and Shares of Personal Estates.

[4th August, 1853.]

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the commons of the United Kingdom of Great Britain and Ireland in parliament assembled, towards raising the necessary supplies for defraying your Majesty's public expenses, and making a permanent addition to the public revenue, have freely and voluntarily resolved to grant unto your Majesty the duties hereinafter mentioned; and do most humbly beseech your Majesty that it may be enacted; and be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Interpretation.

I. In the construction and for the purposes of this act,

The term "real property" shall include all freehold, copyhold, customary, leasehold, and other hereditaments, and heritable property,

Interpretation of certain terms in this act.

whether corporeal or incorporeal, in Great Britain and Ireland, except money secured on heritable property in Scotland, and all estates in any such hereditaments :

The term "personal property" shall not include leaseholds, but shall include money payable under any engagement, and money secured on heritable property in Scotland, and all other property not comprised in the preceding definition of real property :

The term "property" alone shall include real property and personal property :

The term "succession" shall denote any property chargeable with duty under this act :

The term "trustee" shall include an executor and administrator, and any person having or taking on himself the administration of property affected by any express or implied trust :

The term "person" shall include a body corporate, company and society :

The term "Legacy Duty Acts" shall denote the acts now in force for charging duties on legacies and shares of the personal estates of deceased persons (a).

Description of Successions to be charged with Duty.

What dispositions and devolutions of property shall confer successions.

II. Every past or future disposition of property, by reason whereof any person has or shall become beneficially entitled to any property or the income

(a) The Legacy Duty Acts for Great Britain are the 36 Geo. 3, c. 52, *ante*, pp. 84—122 ; 39 Geo. 3, c. 73, *ante*, p. 83 ; 42 Geo. 3, c. 99, s. 2, *post*, p. 276, s. 3, *ante*, p. 17 ; 45 Geo. 3, c. 28, *ante*, pp. 123—125 ; 55 Geo. 3, c. 184, by which the present rates of legacy duty are imposed, *ante*, pp. 80—83 ; 8 & 9 Vict. c. 76, s. 4, *ante*, pp. 125—127.

The Legacy Duty Acts for Ireland are 54 Geo. 3, c. 92 ; 56 Geo. 3, c. 56 ; 5 & 6 Vict. c. 82, ss. 37, 38, 39 ; 8 & 9 Vict. c. 76, s. 4, pp. 125—127.

In all acts words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided. 13 & 14 Vict. c. 21, s. 4.

thereof upon the death of any person dying after the time appointed for the commencement of this act, either immediately or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and every devolution by law of any beneficial interest in property, or the income thereof, upon the death of any person dying after the time appointed for the commencement of this act, to any other person, in possession or expectancy, shall be deemed to have conferred or to confer on the person entitled by reason of any such disposition or devolution a "succession;" and the term "successor" shall denote the person so entitled; and the term "predecessor" shall denote the settlor, disponent, testator, obligor, ancestor or other person from whom the interest of the successor is or shall be derived.

Definition of the terms "successor," "predecessor."

III. Where any person shall, at or after the time appointed for the commencement of this act, have any property vested in them jointly, by any title not conferring on them a succession, any beneficial interest in such property accruing to any of them by survivorship shall be deemed to be a succession; and every person to whom any such interest shall accrue shall be deemed to be the successor; and the person upon whose death such accruer shall take place shall be deemed to be the predecessor; and where any persons after the time appointed for the commencement of this act shall take any succession jointly, they shall pay the duty, if any, chargeable thereon by this act in proportion to their respective interests in the succession; and any beneficial interest in such succession, accruing to any of them by survivorship, shall be deemed to be a new succession, derived from the predecessor from whom the joint title shall have been derived (*b*).

Joint tenants taking by survivorship to be deemed successors.

(*b*) See 36 Geo. 3, c. 52, s. 16; *ante*, p. 97.

The following example may be given under the first part of this section. An estate is conveyed for a valuable consideration to A., B. and C. as joint tenants in fee, which conveyance does not constitute a succession in the first instance. A. dies after the 19th May, 1853, without having severed the joint tenancy, whereupon his one-third part or share accrues to B. and C., who

General
powers of
appointment
to confer
successions.

IV. Where any person shall have a general power of appointment, under any disposition of property taking effect upon the death of any person dying after the time appointed for the commencement of this act, over property, he shall, in the event of his making any appointment thereunder, be deemed to be entitled, at the time of his exercising such power, to the property or interest thereby appointed as a succession derived from the donor of the power (c); and where any person shall have a limited power of appointment, under a disposition taking effect, upon any such death, over property, any person taking any property by the exercise of such power shall be deemed to take the same as a succession derived from the person creating the power as predecessor (d).

will be liable to succession duty in respect of it, and A. will be deemed the predecessor.

Under the second branch of this section, an estate is devised after 19th May, 1853, by A. to B., C. and D. in fee. B. dies without having severed the joint tenancy, whereupon his share survives to C. and D., who become liable to succession duty in respect of it, but in this case, A., the testator, is to be deemed the predecessor.

(c) See *post*, s. 33.

(d) See 36 Geo. 3, c. 52, s. 18, *ante*, p. 99; and 8 & 9 Vict. c. 76, s. 4, *ante*, pp. 125—127, as to legacy duty on legacies subject to powers of appointment.

The following example occurs under this section:—An estate is settled by A. on B. for life, remainder to such uses generally as B. shall by deed appoint, and he appoints the estate to himself in fee. Upon the execution of this appointment, B. is deemed to have become entitled to the property as a succession derived from A., the donor of the power, and will be liable to succession duty; but if B., at the time of making the appointment, shall have already paid any duty in respect of his life estate, he will be allowed to deduct it from the duty payable under the appointment, *ante*, p. 219.

Under the second branch of this section, if property is settled by A. on B. for life, with remainder to such one or more of the children of B. as he shall appoint, and he appoints in favour of his children, in this case the children are considered as the successors and liable to the duty.

It may be contended, that the latter part of this section does not take away the exemption from legacy duty in the case of an appointment by will of a sum of money which, by any *marriage settlement*, is subject to any limited power of appointment in favour of specified objects. See section 18,

V. Where any property shall at or after the time appointed for the commencement of this act be subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or persons upon the extinction or determination of such charge, estate or interest shall be deemed to be a succession accruing to the person, or the persons if more than one, then entitled beneficially to the property or the income thereof, according to his or their respective estates or interests therein, or beneficial enjoyment thereof; and the person or persons from whom such successor or successors respectively shall have derived title to the property so charged shall be deemed to be the predecessor or predecessors, as the case may be (e).

Extinction of determinable charges to confer successions.

VI. Provided that no person entitled, at the time appointed for the commencement of this act, to the

Persons now beneficially entitled to real property subject to leases for life, not liable to duty.

post, p. 259; 8 & 9 Vict. c. 76, s. 4, ante, pp. 125—127; *Attorney-General v. Marquis of Hertford*, 3 Exch. 670.

(e) See post, ss. 12, 20, 34, pp. 256, 260, 267.

The following examples will explain this section:—
By settlement made on the marriage of A. with B., A. settles an estate on himself for life, and after his decease to the use and intent that B., his intended wife, may receive a jointure of 500*l.* for her life, and subject thereto to the first and other sons of the marriage in tail. On the death of A., his eldest son succeeds to the estate subject to the jointure, and pays the duty, deducting the value of the rent-charge. B. afterwards dies, and the jointure determines, the son in possession of the estate becomes chargeable with further duty in respect of the rent-charge, calculated as an annuity upon his own life. In another case, an estate descends upon an heir at law subject to the widow's right of dower; upon the determination of that right, the heir at law is chargeable with a further duty in respect of the dower, calculated as an annuity upon his life. The further duty in the above cases becomes payable upon the determination of the widow's dower by instalments. Sects. 20, 21. No person shall be chargeable with duty upon the extinction or determination of any charge, estate or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto *expectantly* on the death of some person dying after 19th May, 1853. See post, s. 12. Thus, suppose a person in possession of an estate to charge it with an annuity during the life of A., and A. dies in the lifetime of the grantor of the annuity, he is not to be charged with duty in respect of the determined annuity.

immediate reversion in any real property expectant upon the determination of any lease for life or for years determinable on life, shall be chargeable with duty in respect of such determination, in the event of the same occurring in his lifetime (*f*).

Dispositions accompanied by the reservation of a benefit to the grantor, &c. to confer successions.

VII. Where any disposition of property, not being a *bond fide* sale, and not conferring an interest expectant on death on the person in whose favour the same shall be made, shall be accompanied by the reservation or assurance of or contract for any benefit to the grantor, or any other person, for any term of life or for any period ascertainable only by reference to death, such disposition shall be deemed to confer at the time appointed for the determination of such benefit an increase of beneficial interest in such property, as a succession equal in annual value to the yearly amount or yearly value of the benefit so reserved, assured, or contracted for, on the person in whose favour such disposition shall be made.

Dispositions to take effect at periods depending on death, or made for evading duty, to confer successions.

VIII. Where any disposition of property shall be made to take effect at a period ascertainable only by reference to the date of the death of any person dying after the time appointed for the commencement of this act, such disposition shall be deemed to confer a succession on the person in whose favour the same shall be made; and where any disposition of property shall purport to take effect presently, or under such circumstances as not to confer a succession, but by the effect or in consequence of any engagement, secret trust or arrangement capable of being enforced in a court of law or equity, the beneficial ownership of such property shall not *bond fide* pass according to such disposition, but shall in fact devolve to any person on death, or at some period ascertainable only by reference to death, then such last-mentioned person shall be deemed to acquire the property so passing as a succession derived from the person making the disposition as the predecessor; and where any court of competent jurisdiction shall declare any disposition to have been fraudulent and made for the purpose of evading the duty imposed

(*f*) See *post*, ss. 20, 25.

by this act, it shall be lawful for such court to declare a succession to have been conferred on such person at such time and to such an extent as such court shall think just ; and such last-mentioned person shall be deemed to have taken a succession accordingly derived from the person making such disposition as predecessor.

Management and Amount of Duties.

IX. The duties hereinafter imposed shall be considered as stamp duties, and shall be under the care and management of the Commissioners of Inland Revenue, hereinafter called "the commissioners ;" who, by themselves and their officers, shall have the same powers and authorities for the collection, recovery, and management thereof, as are by an act passed in the session holden in the twelfth and thirteenth years of the reign of her present Majesty, chapter one, or by any other act or acts, vested in them for the collection, recovery and management of any stamp duties ; and shall provide proper stamps for denoting the rate per centum of the duties payable under this act ; and shall have all other powers and authorities requisite for carrying this act into execution (g).

Duties to be under the care and management of the Commissioners of Inland Revenue.

(g) By the stat. 12 & 13 Vict. c. 1, the Commissioners of Excise and the Commissioners of Stamps and Taxes respectively were consolidated into one board, now called "The Commissioners of Inland Revenue." The Commissioners of Inland Revenue are to have, use and exercise all the powers and authorities, judicial and otherwise, then vested in or used and exercised by the whole or any number of the said commissioners of excise or of stamps and taxes respectively ; and all rules, orders, regulations, acts, matters and things to be made or done by the said Commissioners of Inland Revenue, and which might be made or done by the commissioners of excise, or of stamps and taxes, and any number of them respectively, are to be as good as if made or done by the said commissioners or any number of them respectively ; and all persons are to be liable for doing or omitting to do anything contrary to any regulation of the Commissioners of Inland Revenue, as they would have been for doing or omitting to do the same contrary to any regulations made by the said commissioners of excise or of stamps and taxes respectively, and

Duties on
successions.

X. There shall be levied and paid to her Majesty in respect of every such succession as aforesaid, ac-

all regulations made by the said commissioners of excise or of stamps and taxes respectively in force were to continue in force until annulled or varied by the said Commissioners of Inland Revenue. 12 & 13 Vict. c. 1, s. 3. All the powers and authorities by that act, or thereafter given to the Commissioners of Inland Revenue, are thereby given to and vested in and may lawfully be used, exercised and put in force by any three or more of them; provided that where by any act or otherwise anything is expressly directed or authorized to be done by any number less than three of the commissioners of excise or stamps and taxes, or shall thereafter be by less than three of the Commissioners of Inland Revenue, the same being done by such number shall be good. 12 & 13 Vict. c. 1, s. 4.

In all acts of parliament, bonds and securities, deeds, or other instruments or writings, rules, orders or regulations (where necessary and not repugnant or inconsistent) in lieu of the terms (*inter alia*) "Commissioners of Stamps and Taxes," or "Commissioners of Stamps," the term "Commissioners of Inland Revenue" is substituted. 12 & 13 Vict. c. 1, s. 17.

No person whatsoever shall commence, prosecute, enter or file any action, bill, plaint or information in any court or before any justice for the recovery of any fine, penalty or forfeiture made or incurred by virtue of this or any other act relating to stamp duties or any duties under the management of the commissioners of stamp duties, unless the same be commenced, &c. in the name of the Attorney-General in England or the King's Advocate in Scotland, or in the name of the solicitor or some other officer of stamps, and any such proceeding in the name of any other person shall be null and void. 44 Geo. 3, c. 98, s. 10.

All fines, penalties and forfeitures under this act, except where otherwise directed, may be recovered, &c. as any other penalty under the stamp laws; and all fines, penalties and forfeitures heretofore imposed or granted by any act relating to stamp duties or this act shall go and be applied to the use of his Majesty, his heirs and successors, anything in any act to the contrary notwithstanding: provided that the Commissioners of Inland Revenue, in every case in which any part of any such fine, penalty or forfeiture was by any act given to the informer, may give such part of any such fine, penalty or forfeiture, or any proportion thereof, as they shall deem expedient, to any person who may inform for or discover any offence in respect of which any such fine, &c. may be discovered or assist in the recovery thereof. 44 Geo. 3, c. 98, s. 27. See 12 & 13 Vict. c. 1. In all actions, bills, plaints, informations and proceedings had, commenced, prosecuted, entered or filed

cording to the value thereof, the following duties ;
(that is to say,)

Where the successor shall be the lineal issue or lineal ancestor of the predecessor, a duty at the rate of one pound per centum upon such value :

Where the successor shall be a brother or sister, or a descendant of a brother or sister of the predecessor, a duty at the rate of three pounds per centum upon such value :

Where the successor shall be a brother or sister of the father or mother, or a descendant of a

in the name of his Majesty, his heirs or successors, or in the name of any person for and on his or their behalf for the recovery of any duties, debts or penalties granted or imposed, due or payable by or under any act now in force relating to the duties under the management of the Commissioners of Inland Revenue, or by this act, his Majesty, his heirs and successors, may have and recover such duties, debts and penalties, with full costs of suit, and all charges attending the same. 53 Geo. 3, c. 108, s. 23. See 12 & 13 Vict. c. 1. The Commissioners of Inland Revenue may stay the proceedings in any prosecution commenced by their direction for the recovery of any penalty or penalties incurred under any act relating to any of the duties under their management on payment of part only of such penalty or penalties, with or without costs, or on payment only of the costs incurred in the prosecution, or any part thereof, as they shall judge proper and expedient, and at their discretion may give all or any part of the sums paid by way of penalty in such prosecution as aforesaid to the person informing them of the offences in respect of which the same shall be paid. 53 Geo. 3, c. 108, s. 24. See 12 & 13 Vict. c. 1.

The act to facilitate the performance of the duties of justices of the peace out of sessions in England and Wales does not extend to any information or complaint, or other proceeding under or by virtue of any of the statutes, relating to the revenue of stamps. 11 & 12 Vict. c. 43, s. 35.

The legacy duty, if not paid according to the directions of the act, constitutes a debt to the crown from the parties liable to the payment. 36 Geo. 3, c. 52, s. 6, *ante*, p. 86. In like manner, in the event of the nonpayment of the succession duty, the successor and every person made accountable for it is made a debtor to the crown in the amount of the unpaid duty for which he shall be accountable. 16 & 17 Vict. c. 71, ss. 42, 44. In either case, therefore, the amount of the duty may be recovered by information in the Court of Exchequer, at the suit of the Attorney-General.

brother or sister of the father or mother of the predecessor, a duty at the rate of five pounds per centum upon such value :

Where the successor shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the predecessor, a duty at the rate of six pounds per centum upon such value :

Where the successor shall be in any other degree of collateral consanguinity to the predecessor than is hereinbefore described, or shall be a stranger in blood to him, a duty at the rate of ten pounds per centum upon such value.

Provision as to married persons chargeable with succession or legacy duties.

XI. Where any person chargeable with duty under this act in respect of any succession, or chargeable with duty under the Legacy Duty Acts in respect of any legacy bequeathed to him or her by a testator dying after the time appointed for the commencement of this act, or in respect of the personal estate of any person dying after the same period, shall have been married to any wife or husband of nearer consanguinity than himself or herself to the predecessor, testator or deceased person, then the person taking such succession, legacy or personal estate shall pay in respect thereof the same rate of duty only as such his or her wife or husband would have been chargeable with if she or he had taken the same (*h*).

What duties payable when the successor is also the predecessor.

XII. Where any person shall take a succession under a disposition made by himself, then, if at the date of such disposition he shall have been entitled to the property comprised in the succession expectantly on the death of any person dying after the time appointed for the commencement of this act, and such person shall have died during the continuance of such disposition, he shall be chargeable with duty on his succession, at the same rate as he would have been chargeable with if no such disposition had been made ; but a successor shall not in any other case be chargeable with duty upon a succession taken

(*h*) This section alters the rule established under 36 Geo. 3, c. 52. See *ante*, pp. 170, 171.

under a disposition made by himself, and no person shall be chargeable with duty upon the extinction or determination of any charge, estate, or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto expectantly on the death of some person dying after the time appointed for the commencement of this act.

XIII. Where the successor shall derive his succession from more predecessors than one, and the proportional interest derived from each of them shall not be distinguishable, it shall be lawful for the commissioners to agree with the successor as to the duty payable; but if no such agreement shall be made, the successor shall be deemed to have derived his succession in equal proportions from each predecessor, and shall be chargeable with duty accordingly.

Provision as to joint predecessors.

XIV. Where the interest of any successor in any personal property shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such interest, and shall be due from the successor who shall first become entitled thereto in possession; but such duty shall be at the highest rate which, if every such successor had been subject to duty, would have been payable by any one of them (i).

Duty on transmitted successions.

XV. Where, at the time appointed for the commencement of this act, any reversionary property expectant on death shall be vested, by alienation or other derivative title, in any person other than the person who shall have been originally entitled thereto under any such disposition or devolution as is mentioned in the second section of this act, then the person in whom such property shall be so vested shall be chargeable with duty in respect thereof as a succession at the same time and at the same rate as the person so originally entitled would have been chargeable with if no such alienation had been made or derivative title created; and where, after the time appointed for the commencement of this act, any suc-

Duties payable in respect of transferred interests.

(i) See 36 Geo. 3, c. 52, ss. 12, 15, *ante*, pp. 93, 97.

cession shall, before the successor shall have become entitled thereto or to the income thereof in possession, have become vested by alienation or by any title not conferring a new succession in any other person, then the duty payable in respect thereof shall be paid at the same rate and time as the same would have been payable if no such alienation had been made or derivative title created; and where the title to any succession shall be accelerated by the surrender or extinction of any prior interests, then the duty thereon shall be payable at the same time and in the same manner as such duty would have been payable if no such acceleration had taken place.

Succession subject to trusts for charitable or public purposes chargeable with duty.

XVI. Where property shall become subject to a trust for any charitable or public purposes, under any past or future disposition, which, if made in favour of an individual, would confer on him a succession, there shall be payable in respect of such property, upon its becoming subject to such trusts, a duty at the rate of ten pounds per centum upon the amount or principal value of such property (*k*); and it shall be lawful for the trustee of any such property to raise the amount of any duty due in respect thereof, with all reasonable expenses, upon the security of the charity property, at interest, with power for him to give effectual discharges for the money so raised.

Provision for life policies and certain post obit bonds.

XVII. No policy of insurance on the life of any person shall create the relation of predecessor and successor between the insurers and the assured, or between the insurers and any assignee of the assured, and no bond or contract made by any person *bond*

(*k*) See *ante*, pp. 163—165.

Many trusts for public purposes come under the denomination of charitable trusts, and the latter part of this section would have been more accurate if, instead of the word "charity" only, the words had been, upon the security of the property subject to a trust for charitable or public purposes, that is to say, if it was the intention of the legislature to authorize the trustee to mortgage property subject to a trust for public purposes, as to repair highways, to build a sessions house for a county or city and the like. See Shelford on Mortmain, pp. 75—82.

vide for valuable consideration in money or money's worth, for the payment of money or money's worth after the death of any other person, shall create the relation of predecessor and successor between the person making such bond or contract and the person to or with whom the same shall be made ; but any disposition or devolution of the monies payable under such policy, bond, or contract, if otherwise such as in itself to create a succession within the provisions of this act, shall be deemed to confer a succession.

XVIII. Where the whole succession or successions Exemptions. derived from the same predecessor and passing upon any death to any person or persons shall not amount in money or principal value to the sum of one hundred pounds, no duty shall be payable under this act in respect thereof or of any portion thereof ; and no duty shall be payable under this act upon any succession, which, as estimated according to the provisions of this act, shall be of less value than twenty pounds in the whole, or upon any monies applied to the payment of the duty on any succession according to any trust for that purpose *(l)*, or by any person in respect of a succession, who, if the same were a legacy bequeathed to him by the predecessor, would be exempted from the payment of duty in respect thereof under the Legacy Duty Acts *(m)* ; and no person shall be charged with duty under this act in respect of any interest surrendered by him or extinguished before the time appointed for the commencement of this act ; and no person charged with the duties on legacies and shares of personal estate under the Legacy Duty Acts, in respect of any property subject to such duties, shall be charged also with the duty granted by this act in respect of the same acquisition of the same property.

XIX. No legatee or other person shall, after the time appointed for the commencement of this act, be chargeable under the Legacy Duty Acts with duty,

Leasehold estates not to be charged with legacy duty as personal estate.

(l) Money left to pay legacy duty is not chargeable with legacy duty. 36 Geo. 3, c. 52, s. 21, *ante*, p. 101.

(m) See *ante*, pp. 83, 85, 126.

not then already due, in respect of any leasehold hereditaments of any testator or deceased person, as belonging to the personal estate of the testator or deceased (n).

Duties to be paid on the successor becoming entitled in possession, but in the case of outstanding interests, on the determination thereof.

XX. The duty imposed by this act shall be paid at the time when the successor, or any person in his right or on his behalf, shall become entitled in possession to his succession, or to the receipt of the income and profits thereof; except that if there shall be any prior charge, estate, or interest, not created by the successor himself, upon or in the succession, by reason whereof the successor shall not be presently entitled to the full enjoyment or value thereof, the duty in respect of the increased value accruing upon the determination of such charge, estate or interest shall, if not previously paid, compounded for, or commuted, be paid at the time of such determination(o); and except that in case of an annuity, or property hereby made chargeable as an annuity, the duties shall be paid by such instalments as are hereinafter directed or referred to(p); provided that no duty shall be payable upon the determination of any lease purporting at the date thereof to be a lease at rack-rent(q), in respect of the increase accruing to the successor upon such determination.

Provisions applicable to Real Property.

The interest of a successor in real property to be considered as an annuity.

XXI. The interest of every successor, except as herein provided, in real property, shall be considered to be of the value of an annuity equal to the annual value of such property, after making such allowances as are hereinafter directed(r), and payable from the date of his becoming entitled thereto in

(n) Leaseholds are now charged as real property with the succession duty; *ante*, p. 247.

(o) See s. 5, *ante*, p. 251.

(p) See ss. 21, 29, 30, *post*, p. 264.

(q) Where no fine is paid for a lease, and the property is let at the full rent which the tenant is capable of affording, the rent is called a *rack-rent*. Wood's Inst. 194. Rack-rent is a rent of the full value of the tenement or near it; 2 Bl. Comm. 43; Woodfall's L. & T. 277, 5th edit.

(r) See *post*, ss. 22, 26, 28, 33—38.

possession, or to the receipt of the income or profits thereof during the residue of his life, or for any less period during which he shall be entitled thereto; and every such annuity, for the purposes of this act, shall be valued according to the tables in the schedule annexed to this act; and the duty chargeable thereon shall be paid by eight equal half-yearly instalments, the first of such instalments to be paid at the expiration of twelve months^(s) next after the successor shall have become entitled to the beneficial enjoyment of the real property in respect whereof the same shall be payable, and the seven following instalments at half-yearly intervals of six months each, to be computed from the day on which the first instalment shall have become due, provided that if the successor shall die before all such instalments shall have become due, then any instalments not due at his decease shall cease to be payable, except in the case of a successor who shall have been competent to dispose by will of a continuing interest in such property, in which case the instalments unpaid at his death shall be a continuing charge on such interest, in exoneration of his other property, and shall be payable by the owner for the time being of such interest^(t).

(s) In all acts the word month means calendar month, unless words be added showing lunar month to be intended. 13 & 14 Vict. c. 21, s. 4.

(t) See ss. 16, 20, *ante*, pp. 258, 260; ss. 23, 24, 25, 27, *post*, pp. 262, 263, 264.

The exception in this section is of a successor who shall have been competent to dispose by will of a continuing interest. This will of course include a tenant in fee, and the donee of a general power to appoint in fee by will; but supposing such tenant in fee or donee to be an infant or lunatic, and to die under disability, it cannot be affirmed, that they had been competent to dispose by will, and it seems questionable whether or not they come within the exception. A tenant in tail, or a joint tenant in fee, are not within the exception, as neither of them is competent to dispose by will. A married woman, tenant in fee, is not competent to dispose by will of a continuing interest, except under a power duly created; *Doe d. Stevens v. Scott*, 1 Moo. & P. 317; 4 Bing. 405; and therefore it should seem that the exception will not be applicable to the case of a married woman who dies seised in fee without having such power. Again, a lunatic, without lucid intervals, although

Rules for
valuing
lands,
houses, &c.

XXII. In estimating the annual value of lands used for agricultural purposes, houses, buildings, tithes, teinds, rent-charges, and other property yielding or capable of yielding income not of a fluctuating character, an allowance shall be made of all necessary outgoings.

Rule as to
timber.

XXIII. Where timber, trees or wood, not being coppice of underwood, shall be comprised in any succession, the successor shall be chargeable with duty upon his interest in the net monies, after deducting all necessary outgoings for the year, which shall from time to time be received from any sales of such timber, trees or wood, and shall account for and pay the same yearly; provided, that no duty shall be payable on the net monies received from the sale of timber, trees or wood in any one year, unless such net monies shall exceed the sum of ten pounds; provided, that if the successor shall be desirous of commuting the duty, and shall deliver to the commissioners an estimate of the net monies obtainable by him from the sale of such timber, trees and wood as may, in a prudent course of management of the property, be felled by such successor during his life, the commissioners, if satisfied with such estimate, shall accept the same and assess the duty accordingly (u).

seised in fee, is not competent to dispose by will. It will no doubt be contended, that the exception applies to the extent of the party's interest without reference to his capacity to dispose by will.

(u) By this section the duty is charged on the net income exceeding 10*l.* received from the sales of any timber yearly. It has been suggested, that the statute only provides for the case of timber, for which net monies exceeding the sum of 10*l.* shall be received, and that this section does not apply to the case where the owner of timber manufactures it himself and sells it as a manufactured article, as in the case where the owner of the timber saws it in his own saw-mill and sells the planks. Another case may be put, where timber devolves on a carpenter, machine maker or ship builder, who uses it for the purposes of his trade, in which case no provision is made for assessing the duty. Supposing also the successor fells his timber, and stacks it in his own timber-yard until it is properly seasoned for use, and then sells it, is he to be charged on the improved value? See 18 Jur. 59. So, if the successor

XXIV. A successor shall not be chargeable with duty in respect of any advowson or church patronage comprised in his succession, unless the same, or some right of presentation, or some interest in or out of such advowson or church patronage, shall be disposed of by or in concert with him for money or money's worth, in which case he shall be chargeable with duty upon the amount or value of the money or money's worth for which the same, or any such presentation or interest, shall be so disposed of at the time of such disposal.

Rule as to
advowsons.

XXV. Where a successor, entitled to any real property, subject to any lease by reason whereof he shall not be presently entitled to the full enjoyment thereof, shall not have paid duty in respect of the full yearly value of such property, he shall be chargeable with duty upon his interest in any fine or grassum or other consideration which may be received during his life for the renewal of any such lease, or the grant of any reversionary lease of the same property (v).

Rule as to
property
subject to
beneficial
leases.

XXVI. The yearly value of any manor, opened mine, or other real property of a fluctuating yearly income shall either be calculated upon the average profits or income derived therefrom, after deducting all necessary outgoings, during such a number of preceding years as shall be agreed upon for this

Rule as to
manors,
mines, &c.

yearly fells timber *under* the value of 10*L.*, and stacks it annually until it becomes of the value of 100*L.*, is he to pay any and what duty? So again, how are all the necessary outgoings for the year to be ascertained, except in the case of regular wood, if it should be necessary to hire a plot of ground upon which to stack the timber? It seems clear that the rent for such ground would be a necessary outgoing, but it is very difficult to say what would be a necessary outgoing in the case of timber felled in a park or from hedge-rows, unless the Commissioners of Inland Revenue will adopt a rule satisfactory to the parties called upon to pay duty. In short, the construction of this section appears to be full of difficulties, but the editor has neither time nor inclination to suggest or solve them.

(v) If the lease is not renewed upon the determination of it, duty will be payable in respect of the increase accruing to the successor upon such determination, unless it was a lease at rack-rent. Sect. 20, *ante*, p. 260. See also sect. 6, *ante*, p. 251.

purpose between the commissioners and the successor, before the first payment of duty on the succession shall have become due; or if no such period shall be agreed upon, then the principal value of such property shall be ascertained, and the annual value thereof shall be considered to be equal to interest calculated at the rate of three pounds per centum per annum on the amount of such principal value.

Duty payable by corporations, &c. taking real estates.

XXVII. Where any body corporate, company or society shall become entitled as successors to any real property, the duty in respect thereof shall be assessed upon the principal value of such property, but shall be payable by such instalments, at such times, and in such manner as the same would be payable if assessed in respect of property devolving on a successor in fee simple (x); and it shall be lawful for such body corporate, company or society, or any trustee thereof, to raise the amount of any duty due in respect of their succession upon the security thereof, at interest, with power for them to give effectual discharges for the money so raised.

Allowance for fines, &c. paid by successor.

XXVIII. If a successor, or any person on his behalf, upon becoming entitled to any copyhold or other real property, shall be subject to any fines, casualties of superiority, compositions, reliefs or charges incident to the tenure thereof, and due in respect of his succession, he shall be entitled to have a deduction allowed to him of the amount of such fines, casualties, compositions, reliefs or charges from the assessable value of his interest in such copyhold or other real property.

Real property directed to be sold to be charged as personalty.

XXIX. The interest of any successor in monies to arise from the sale of real property under any trust for the sale thereof, so far as the same shall not be chargeable with duty under the Legacy Duty Acts, shall be deemed to be personal property chargeable with duty under this act; provided that

(x) See sect. 21, *ante*, p. 260.

The rate of duty payable under this section will be 10l. per cent. The act does not contain any directions peculiarly applicable to an assessment upon an estate in fee simple.

where such monies shall be subject to any trust for the re-investment thereof in the purchase of other real property, to which the successor would not be absolutely entitled, such monies shall be deemed to be real property, and for the purpose of this act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall then be the real property subject to the trust or direction for sale, or any property purchased in substitution for it, or any intermediate investment of the produce of the sale of the original property.

Provisions respecting Personal Property.

XXX. The interest of any successor in personal property subject to any trust for the investment thereof in the purchase of real property to which the successor would be absolutely entitled shall, so far as the same shall not be chargeable with duty under the Legacy Duty Acts(*y*), be chargeable with duty under this act as personal property; and personal property subject to any trust for the investment thereof in the purchase of real property to which the successor would not be absolutely entitled shall, so far as the same shall not be chargeable with duty under the Legacy Duty Acts, be chargeable with duty under this act as real property; and for the purposes of this act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall be the real property directed to be purchased, or any

Personal property to be invested in real property how to be charged.

(*y*) See 36 Geo. 3, c. 52, s. 19, *ante*, p. 100, as to charge of legacy duty on personal estates directed to be applied in the purchase of real estates.

Annuities under this act and the Legacy Duty Acts to be valued according to the tables annexed to this act.

intermediate investment of the personal property directed to be invested in such purchase.

XXXI. Where it shall be required to calculate, for the purposes either of this act or of the Legacy Duty Acts, the value of any annuity, or of any interest chargeable with duty as an annuity, such value shall, after the time appointed for the commencement of this act, be calculated according to the tables in the schedule annexed to this act (z), and not according to the tables in the schedule annexed to the act of the thirty-sixth year of the reign of king George the Third, chapter fifty-two, and such annuity or interest shall be chargeable with duty accordingly.

Provisions as to the assessment of personalty.

XXXII. The following provisions relating to the assessment and payment of duty on personal estate, and the exemption thereof from duty in certain cases, namely, the eighth, tenth, eleventh, twelfth (a), fourteenth and twenty-third sections (b) of the said act of the thirty-sixth year of the reign of king George the Third, chapter fifty-two, shall be applicable to the personal property comprised in any succession, and to the assessment and payment of duty thereon, as if such personal property were a legacy bequeathed by the predecessor to the successor, and were subject to the said provisions, and as if the tables in the said act referred to were the tables in the schedules annexed to this act.

Real and Personal Property.

Allowance to donee of general power of appointment.

XXXIII. Where the donee of a general power of appointment shall become chargeable with duty in respect of the property appointed by him under such power, he shall be allowed to deduct from the duty so payable any duty he may have already paid in respect of any limited interest taken by him in such property (c).

(z) See the tables, *post*, p. 279.

(a) *Ante*, pp. 89, 92, 93.

(b) *Ante*, pp. 96, 105.

(c) See *ante*, s. 4, p. 250; 36 Geo 3, c. 52, s. 18, *ante*, p. 90.

XXXIV. In estimating the value of a succession no allowance shall be made in respect of any incumbrance thereon created or incurred by the successor, not made in execution of a prior special power of appointment(d), but an allowance shall be made in respect of all other incumbrances, and also in respect of any monies which the successor may previously to his possession have laid out in the substantial repairs or permanent improvement of real property comprised in his succession; provided that upon any successor becoming entitled to real property subject to any prior principal charge, an allowance shall be made to him in respect only of the yearly sums payable by way of interest or otherwise on such charge as reducing the annual value *pro tanto* of such real property(e).

What allowance to be made for incumbrances.

(d) It is a question for consideration under this section, whether the word "*special*" means the same as the word *limited* used in the fourth section. The word *limited* is there used with reference to the objects of the power, but a power may be special without being limited as to its objects, as where a power is given to appoint to any persons whatsoever with the consent of a third party. In this case the power is special, but not limited in the sense in which it is used in the fourth section of this act.

(e) A mortgage is a debt by specialty. It followed from the known rules, both of law and equity, that as between the real and personal representatives of the *debtor*, the personal estate was primarily liable to the payment of the debt, and must indemnify the real estate against it. All instances to the contrary were mere exceptions to that general rule; and whether the lands in mortgage devolved on the heir at law as *heres natus*; *Cope v. Cope*, 2 Salk. 449; *Howel v. Price*, 2 P. Wms. 292; or on a general devisee as *heres factus*; *Lutkins v. Lee*, For. 54; *Galton v. Hancock*, 2 Atk. 436; or on a particular devisee; *Parkley v. Parkley*, 2 Ch. C. 84; 1 Vern. 36; *Johnson v. Milksopp*, 2 Vern. 212; in either case the personal estate must, in the absence of evidence of intention to the contrary, become the primary fund and exonerate the real estate, descended or devised, from the debt. See Coote on Mortgages, B. 5, Chap. III.; Wms. on Exors. 1442—1450, 4th edit.

The following statute has made an important alteration in the law with reference to the above rule. It is now enacted, that when any person shall, after the 31st of December, 1854, die seised of or entitled to any estate or interest in any land or other hereditaments which shall at the time of his death

Heir or devisee of real estate not to claim pay-

No allowance to be made in respect of contingent incumbrances, unless they take effect.

The duty on successions to be calculated without regard to contingencies.

Provision for allowance or return of duty.

ment of mortgage out of personal assets.

Not to affect rights claimed under any will, &c. before 1st Jan. 1855.

XXXV. In estimating the value of a succession no allowance shall be made in respect of any contingent incumbrance thereon; but in the event of such incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of the duty so paid by him in respect of the amount or value of the incumbrance when taking effect.

XXXVI. In estimating the value of a succession no allowance shall be made in respect of any contingency upon the happening of which the property may pass to some other person; but in the event of the same so passing the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest (e).

XXXVII. Where a successor shall not have obtained the whole of his succession at the time of the duty becoming payable, he shall be chargeable only with duty on the value of the property or benefit

be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not, by his will or deed or other document, have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage debts charged on the whole thereof: provided always, that nothing herein contained shall affect or diminish any right of the mortgagee on such lands or hereditaments to obtain full payment or satisfaction of his mortgage debt either out of the personal estate of the person so dying as aforesaid or otherwise: provided also, that nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed or document already made or to be made before the 1st January, 1855. 17 & 18 Vict. c. 113.

The act shall not extend to Scotland. *Ib.* s. 2.

(e) The duty on legacies subject to contingencies is to be charged as for absolute bequests. 36 Geo. 3, c. 52, s. 17, *ante*, p. 98.

from time to time obtained by him; and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved to the satisfaction of the commissioners that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of property which the successor shall have been unable to recover, or from or of which he shall have been evicted or deprived by any superior title, or that for any other reason it ought to be refunded, the commissioners shall thereupon refund the same to the person entitled thereto (f).

XXXVIII. Where any successor upon taking a succession shall be bound to relinquish or be deprived of any other property, the commissioners shall upon the computation of the assessable value of his succession, make such allowance to him as may be just in respect of the value of such property.

Allowance to be made to successor in respect of relinquished property.

Powers of Commissioners in certain Cases.

XXXIX. Where, in the opinion of the commissioners, any succession shall be of such a nature, or so disposed or circumstanced, that the value thereof shall not be fairly ascertainable under any of the preceding directions, or where, from the complication of circumstances affecting the value of a succession, or affecting the assessment or recovery of the duty thereon, the commissioners shall think it expedient to exercise this present authority, it shall be lawful for them to compound the duty payable on the succession upon such terms as they shall think fit, and to give discharges to the successor, upon payment of duty according to such composition; and it shall be lawful for them, in any special cases in which they may think it expedient so to do, to enlarge the time for payment of any duty (g).

Power for commissioners to compound duties.

(f) See ss. 20, 21 and 36 Geo. 3, c. 52, ss. 34, 37, *ante*, pp. 119, 121.

(g) See 36 Geo. 3, c. 52, s. 33, *ante*, p. 117.

Power of
commission-
ers to receive
duty in ad-
vance.

XL. It shall be lawful for the commissioners to receive any duty tendered to them in advance, and to allow discount thereon at the rate of four pounds per centum per annum, or at such other rate as may from time to time be directed by the commissioners of her Majesty's treasury; and no person, by reason of his having made any payment of duty in advance, shall be prejudiced in his right to have any repayment of duty made to him to which he may become entitled under any of the provisions of this act (*h*).

Power for
commission-
ers to com-
mute future
duties.

XLl. It shall be lawful for the commissioners, in their discretion, upon application made by any person who shall be entitled to a succession in expectancy, to commute the duty presumptively payable in respect of such succession for a certain sum to be presently paid, and for assessing the amount which shall be so payable they shall cause a present value to be set upon such presumptive duty, regard being had to the contingencies affecting the liability to such duty, and the interest of money involved in such calculation being reckoned at the rate for the time being allowed by the commissioners in respect of duties paid in advance; and upon the receipt of such certain sum they shall give discharges to the successor accordingly (*i*).

Provisions for securing Payment of Duties.

Duty to be a
first charge
on property.

XLII. The duty imposed by this act shall be a first charge on the interest of the successor, and of all persons claiming in his right, in all the real property in respect whereof such duty shall be assessed; and such duty shall also be a first charge on the interest of the successor in the personal property in respect whereof the same shall be assessed, while the same shall remain in the ownership or control of the successor, or of any trustee for him, or of his guardian or committee, or tutor or curator, or of the husband of any wife who shall be the suc-

(*h*) See ss. 35, 37, *ante*, pp. 120, 121.

(*i*) See *ante*, ss. 20, 28, pp. 260, 264.

cessor ; and the said duty shall be a debt due to the crown from the successor, having, in the case of real property comprised in any succession, priority over all charges and interests created by him, but such duty shall not charge or affect any other real property of the successor than the property comprised in such succession ; provided, that where any settled real property comprised in a succession shall be subject to any power of sale, exchange or partition, exercisable with the consent of the successor, or by the successor with the consent of another person, he shall not be disqualified by the charge of duty on his succession from effectually authorizing by his consent the exercise of such power, or exercising any power with proper consent, as the case may be, and in such case the duty shall be charged substitutively upon the successor's interest in all real property acquired in substitution for the real property before comprised in the succession, and in the meantime upon his interest also in all monies arising from the exercise of any such power, and in all investments of such monies.

Collection of Duty.

XLIII. The commissioners shall, at the request of any successor, or any person claiming in his right, accept or cause to be made so many separate assessments of the duty payable in respect of the interest of the successor in any separate properties, or undefined portions of the same property, as shall be reasonably required ; and in such cases the respective properties shall be chargeable only with the amount of duty separately assessed in respect thereof ; and it shall be lawful also for the commissioners, by their certificates, to be issued in such form as they shall think fit, from time to time to declare that any duties already assessed, whether collectively or distributively, in respect of any succession, shall thenceforth be charged, as to any unpaid instalments, according to any further distribution thereof, upon separate parts only of the property in respect of which such

Provision for
the separate
assessments
of properties.

assessment shall have been made, in which case the charge of such duties shall be thenceforth limited according to such further distribution.

What persons accountable for duty.

XLIV. The following persons, besides the successor, shall be personally accountable to her Majesty for the duty payable in respect of any succession, but to the extent only of the property or funds actually received or disposed of by them respectively after the time appointed for the commencement of this act; that is to say, every trustee (*k*), guardian, committee, tutor or curator, or husband in whom respectively any property, or the management of any property, subject to such duty, shall be vested, and every person in whom the same shall be vested by alienation or other derivative title at the time of the succession becoming an interest in possession (*l*); and all such trustees, guardians, committees, tutors, curators, husbands, and persons shall be authorized to compound or pay in advance or commute any duty, and retain out of the property subject to any such duty the amount thereof, or to raise such amount and the expenses incident thereto, at interest on the security of such property, with power to give effectual discharges for the same, and such security shall have priority over any charge or incumbrance created by the successor; and in the event of the nonpayment of such duty as aforesaid every person hereby made accountable shall be a debtor to her Majesty in the amount of the unpaid duty for which he shall be so accountable (*m*).

Notice of succession to be given to the commissioners, and a return of the property made.

XLV. The persons hereby made accountable for the payment of duty in respect of any succession,

(*k*) The term "trustee" shall include an executor and administrator, and any person having or taking on himself the administration of property affected by any express or implied trust; *ante*, s. 1, p. 248.

(*l*) See *ante*, s. 15, p. 257.

(*m*) Executors are in like manner made personally accountable and debtors for the legacy duty; 36 Geo. 3, c. 52, s. 6, *ante*, pp. 86—88; and have power to retain the duty; *Id.* ss. 13, 24, *ante*, pp. 94, 105; but they are not empowered to raise the amount of legacy duty upon the security of the property.

or some of them, shall, in the case of personal property, at the time of the first payment, delivery, retainer, satisfaction, or other discharge of the same or any part thereof to or for the successor or any person in his right, and in the case of real property when any duty in respect thereof shall first become payable, give notice to the commissioners or to their officers of their liability to such duty, and shall at the same time deliver to the commissioners or to their officers a full and true account of the property for the duty whereon they shall respectively be accountable, and of the value thereof, and of the deductions claimed by them, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the commissioners fully and correctly to ascertain the duties due; and the commissioners, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein, upon their requisition, may assess the succession duty on the footing of such account and estimate; but it shall be lawful for the commissioners, if dissatisfied with such account and estimate, to cause an account and estimate to be taken by any person or persons to be appointed by themselves for that purpose, and to assess the duty on the footing of such last-mentioned account and estimate, subject to appeal, as hereinafter provided; and if the duty so assessed shall exceed the duty assessable according to the return made to the commissioners, and with which they shall have been dissatisfied, and if there shall be no appeal against such assessment, then it shall be in the discretion of the commissioners, having regard to the merits of each case, to charge the whole or any part of the expenses incident to the taking of such last-mentioned account and estimate on the interest of the successor in respect whereof the duty shall be due, in increase of such duty, and to recover the same forthwith accordingly; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be

in the discretion of the court of appeal hereinafter appointed.

Penalty on
not giving
notice of
succession.

XLVI. If any person required to give any such notice or deliver such account as aforesaid shall wilfully neglect to do so at the prescribed period, he shall be liable to pay to her Majesty a sum equal to ten pounds per centum upon the amount of duty payable by him, or in the case of a succession chargeable with a higher rate of duty than one pound per centum upon the value of the succession, would amount to, and a like penalty for every month after the first month during which such neglect shall continue; and if any person liable under this act to pay any duty shall, after such duty shall have been finally ascertained, wilfully neglect to do so within twenty-one days, he shall also be liable to pay to her Majesty a sum equal to ten pounds per centum upon the amount of duty so unpaid, or upon such less sum as such duty, if assessable at the rate of one pound per centum on the value of the succession, would amount to, and a like penalty for every month after the first month during which such neglect shall continue.

Proceeding
if return not
made.

XLVII. If any accountable party required by the commissioners to deliver any such account as aforesaid shall make default in doing so, it shall be lawful for the commissioners to sue, out of her Majesty's Court of Exchequer in England, Scotland or Ireland, as they shall think expedient, according to the circumstances of the case, and for such court to issue a writ of summons in such form as the judges of such court shall from time to time frame, commanding the party so in default to deliver such account within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as shall be just⁽ⁿ⁾.

(n) By an order of the Lord Chief Baron and the other Barons of the Court of Exchequer, made 25th November, 1853, the writ of summons to be issued in pursuance of the act is in the form following:—And it is further ordered, that the party or parties on whom the said writ of summons shall be served, shall appear thereto and proceed to show cause against

XLVIII. The commissioners shall for the purposes of the Legacy Duty Acts be empowered to require and enforce the delivery of accounts from executors, administrators and trustees of property

Power to enforce returns from executors and administrators.

the requirements of the same writ within eight days next after the service thereof; 9 Exch. 286.

FORM OF WRIT OF SUMMONS.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, defender of the faith, to greeting: Whereas we have been given to understand, in our Court before our Barons of the Exchequer at Westminster, that you being [an] accountable party within the true intent and meaning of the statute passed in the parliament holden in the sixteenth and seventeenth years of our reign, chapter 51, have been required by our Commissioners of Inland Revenue to render an account pursuant to the said statute, and have made default therein, now we command you [and each of you, *if more than one*] that (all excuses ceasing) within eight days from the service of this writ, or a copy thereof, you do deliver to the said Commissioners of Inland Revenue an account upon oath of , and that you do within the same time pay the duty chargeable Or that you the said [and each of you, *if more than one*] do within the same time appear before the barons of our said Exchequer at Westminster, and show cause why you make default in the premises, and this you [and each of you, *if more than one*] are in nowise to omit upon pain of process of contempt issuing against your person for your neglect herein. Witness Sir Frederick Pollock, Knight [at Westminster, *if issued in term*] the day of in the year of our reign by statute and by the barons.

FORM OF WRIT OF ATTACHMENT.

In the Exchequer.

the day of 185 .

In the matter of the estate and effects of deceased.

Upon the motion of Mr. of counsel for her Majesty's Attorney-General, on behalf of the Commissioners of Inland Revenue, informing the court that a writ of summons had issued out and under the seal of this court on the day of in the year of her present Majesty's reign, pursuant to a statute passed in a session of parliament holden in the sixteenth and seventeenth years of her said Majesty's reign, chapter 51, and the Legacy Duty Acts, against commanding within eight days from the service of the said writ, or a copy thereof, to deliver to the said Commissioners of Inland Revenue an account upon oath of Or that the said should within the same time appear before the barons of this court and show cause why

and legatees chargeable with duty under such acts, and for the duty whereon they shall be accountable, in the same manner as they are by the last preceding section of this act empowered to require and enforce the delivery of accounts for the purposes of this act (o).

Accounting party to verify his account by production of books and documents, and commissioners may, without fee, inspect and take copies of public books.

XLIX. Every person who under the provisions of this act may deliver any account or estimate of the property comprised in any succession shall, if required by the commissioners, produce before them such books and documents in the custody or control of such person, so far as the same relate to such account or estimate, as may be capable of affording any necessary information for the purpose of ascertaining such property and the duty payable thereon; and the commissioners may, without payment of any fee, inspect and take copies of any public book; but all such information shall be deemed to be confidential, and the commissioners shall not disclose the same or the contents of any document or book, to any person, otherwise than for the purposes of this act.

made default in the premises. And further, informing the court that the said writ of summons was duly served upon the said but that had not delivered to the said commissioners the account required by the said writ of summons, or paid the duty on the of the said deceased; neither had appeared and shown cause to this court why made default in the premises: And therefore praying that a writ or writs of attachment may issue against the said for contempt of this court in not obeying the said writ of summons, and on reading the said writ of summons, the affidavit of of due service thereof on the said and also the affidavit of sworn in this matter on the day of It is ordered by the court that her Majesty's writ or writs of attachment do issue out and under the seal of this court against the said for contempt of this court in not obeying the aforesaid writ of summons, unless cause shall be shown to the contrary in eight days from the service of this order.

(o) By the 42 Geo. 3, c. 99, s. 2, where executors or administrators had not paid the duties payable on legacies in proper time, the Court of Exchequer, on application from the Commissioners of Inland Revenue, might grant a rule to show cause why such executors or administrators should not deliver an account upon oath of the legacies paid, &c.

L. It shall be lawful for any accountable party dissatisfied with the assessment of the commissioners, upon giving, within twenty-one days after the date of such assessment, notice in writing to the commissioners of his intention to appeal against such assessment, and a statement of the grounds of such appeal, such statement to be furnished within the further period of thirty days, to appeal by petition (*p*) accordingly to her Majesty's Court of Exchequer in England, Scotland or Ireland, according to the place in which the appellant shall be resident; and every such court, or any judge thereof sitting in chambers, shall have jurisdiction to hear and determine the matter of such appeal and the costs thereof, with power to direct, for the purposes of such appeal, any inquiry, valuation or report to be made by any officer of the court, or other person, as such court or judge may think fit: provided, that where the sum in dispute in respect of duty on such assessment does not exceed fifty pounds, the accountable party may, having given notice of appeal and delivered a statement of the grounds thereof as hereinbefore directed, appeal to the judge of the County Court in England, the Sheriff Court in Scotland, or the Assistant Barrister's Court in Ireland, for the district, county or division in which the appellant shall be resident or the property be situate; and every such judge shall have jurisdiction to hear and determine the matter of such last-mentioned appeal, with the like power and authority as are by this section given to a judge of her Majesty's Court of Exchequer.

LI. Whenever any payment of duty shall be made under this act, the same shall be entered in a book to be kept by the commissioners for this purpose, and the Receiver General of Inland Revenue, or other proper officer appointed by the commissioners, shall give a receipt for the same in such form as they shall think fit, and stamped with the proper stamp for denoting the rate of duty, and the commissioners shall from time to time deliver to any

Power for
accountable
party to
appeal.

Duty to be
entered by
the commis-
sioners in a
book, and a
stamped re-
ceipt to be
given.

(*p*) See form of petition, *post*.

person interested in any property affected by such duty, on applying for the same for any reasonable purpose approved by the commissioners, a certificate, in such form as they think fit, of such payment.

Protection
to *bonâ fide*
purchasers.

LII. Every receipt and certificate purporting to be in discharge of the whole duty payable for the time being in respect of any succession or any part thereof, shall exonerate a *bonâ fide* purchaser for valuable consideration, and without notice, from such duty, notwithstanding any suppression or misstatement in the account upon the footing whereof the same may have been assessed, or any insufficiency of such assessment; and no *bonâ fide* purchaser of property for valuable consideration under a title not appearing to confer a succession shall be subject to any duty with which such property may be chargeable under the provisions of this act, by reason of any extrinsic circumstances of which he shall not have had notice at the time of such purchase.

Court in
suits for the
administra-
tion of pro-
perty to pro-
vide for pay-
ment of
duty.

LIII. Whenever any suit shall be pending in any court for the administration of any property chargeable with duty under this act or the Legacy Duty Acts, such court shall provide, out of any property which may be in the possession or control of the court, for the payment of duty to the commissioners (q).

Commence-
ment of act.

LIV. This act shall be taken to have come into operation on the nineteenth day of May, one thousand eight hundred and fifty-three, and shall take effect accordingly.

Short title.

LV. This act may be cited for all purposes as "The Succession Duty Act, 1853."

(q) See 36 Geo. 3, c. 52, s. 25, *ante*, p. 107, and the order of the Court of Chancery, *ante*, p. 245.

The SCHEDULE to which this Act refers.

TABLE I.

The Values of an Annuity of £100 per Annum held on a single Life.

Years of Age.	Values.	Years of Age.	Values.
	£ s. d.		£ s. d.
Birth	1,892 8 6	24	1,700 11 6
1	1,906 13 0	25	1,694 0 0
2	1,919 2 0	26	1,686 14 6
3	1,926 8 0	27	1,677 5 6
4	1,928 16 0	28	1,667 1 0
5	1,926 19 6	29	1,656 1 0
6	1,921 12 0	30	1,644 7 6
7	1,913 4 6	31	1,632 0 0
8	1,902 16 6	32	1,619 0 6
9	1,890 19 6	33	1,605 4 0
10	1,878 3 0	34	1,590 9 6
11	1,864 7 0	35	1,574 17 6
12	1,849 12 0	36	1,558 9 6
13	1,833 18 6	37	1,541 10 6
14	1,817 7 6	38	1,524 0 0
15	1,800 8 6	39	1,506 1 6
16	1,783 13 0	40	1,487 10 0
17	1,767 16 0	41	1,468 4 0
18	1,753 5 6	42	1,447 11 6
19	1,740 11 0	43	1,426 2 0
20	1,729 9 6	44	1,403 10 0
21	1,719 17 0	45	1,379 14 6
22	1,713 1 0	46	1,354 16 6
23	1,706 16 6	47	1,328 2 6

TABLE I.—*continued.*

Years of Age.	Values.			Years of Age.	Values.		
	£	s.	d.		£	s.	d.
48	1,300	9	6	72	623	19	6
49	1,271	19	6	73	597	7	6
50	1,242	19	6	74	569	13	0
51	1,213	17	0	75	541	0	6
52	1,185	14	0	76	511	9	6
53	1,157	17	6	77	477	17	0
54	1,130	13	0	78	444	9	6
55	1,103	18	0	79	412	9	6
56	1,077	10	0	80	381	3	0
57	1,051	10	0	81	350	14	6
58	1,025	10	0	82	321	14	6
59	999	1	0	83	292	10	0
60	972	1	0	84	263	2	0
61	943	15	6	85	234	18	6
62	914	2	0	86	207	16	0
63	883	6	0	87	184	11	6
64	852	9	0	88	164	17	6
65	821	12	6	89	148	7	0
66	790	15	0	90	133	9	0
67	761	19	0	91	122	16	0
68	733	8	6	92	107	7	0
69	705	4	0	93	93	3	0
70	677	9	0	94	79	8	6
71	650	8	0	95	64	11	0

TABLE II.

The Values of an Annuity of £100 per Annum, held on
the Joint Continuance of Two Lives.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
95	95	23	13	0	95	62	61	12	0
95	94	26	9	6	95	61	61	14	6
95	93	28	18	6	95	60	61	15	6
95	92	31	8	0	95	59	61	17	0
95	91	33	19	0	95	58	61	18	6
95	90	34	16	0	95	57	62	1	0
95	89	37	1	6	95	56	62	3	6
95	88	39	4	6	95	55	62	6	6
95	87	41	13	0	95	54	62	9	6
95	86	44	4	0	95	53	62	12	6
95	85	46	16	0	95	52	62	15	6
95	84	48	15	6	95	51	62	18	6
95	83	50	9	6	95	50	63	2	0
95	82	51	15	6	95	49	63	4	0
95	81	52	16	6	95	48	63	5	6
95	80	53	19	6	95	47	63	6	6
95	79	55	0	0	95	46	63	7	6
95	78	55	18	0	95	45	63	7	0
95	77	56	16	0	95	44	63	7	0
95	76	57	10	0	95	43	63	7	6
95	75	57	13	0	95	42	63	7	6
95	74	57	18	6	95	41	63	7	6
95	73	58	4	6	95	40	63	7	6
95	72	58	9	6	95	39	63	7	6
95	71	58	15	6	95	38	63	8	0
95	70	59	10	0	95	37	63	8	6
95	69	59	10	6	95	36	63	9	0
95	68	59	17	6	95	35	63	9	0
95	67	60	3	6	95	34	63	9	6
95	66	60	9	6	95	33	63	9	0
95	65	60	17	6	95	32	63	9	0
95	64	61	3	0	95	31	63	9	0
95	63	61	7	6	95	30	63	9	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
95	29	63	9	0	94	88	45	13	6
95	28	63	9	0	94	87	48	14	0
95	27	63	8	6	94	86	51	18	6
95	26	63	8	6	94	85	55	5	0
95	25	63	7	0	94	84	57	17	6
95	24	63	6	6	94	83	60	3	0
95	23	63	6	6	94	82	61	18	0
95	22	63	6	6	94	81	63	7	0
95	21	63	7	0	94	80	64	17	6
95	20	63	9	6	94	79	66	5	0
95	19	63	12	0	94	78	67	9	6
95	18	63	14	0	94	77	68	13	6
95	17	63	16	6	94	76	69	13	6
95	16	63	18	6	94	75	69	19	0
95	15	64	0	0	94	74	70	6	6
95	14	64	1	0	94	73	70	14	6
95	13	64	1	6	94	72	71	1	6
95	12	64	1	6	94	71	71	9	6
95	11	64	1	6	94	70	71	19	0
95	10	64	1	6	94	69	72	9	0
95	9	64	1	0	94	68	72	18	6
95	8	64	0	6	94	67	73	7	6
95	7	64	0	0	94	66	72	15	6
95	6	63	18	6	94	65	74	6	0
95	5	63	16	6	94	64	74	14	0
95	4	63	14	0	94	63	75	0	6
95	3	63	10	6	94	62	75	6	0
95	2	63	6	0	94	61	75	10	0
95	1	63	1	0	94	60	75	12	0
95	0	62	18	0	94	59	75	13	6
					94	58	75	16	0
94	94	29	19	0	94	57	75	19	0
94	93	32	19	0	94	56	76	2	0
94	92	35	19	0	94	55	76	6	0
94	91	39	1	0	94	54	76	10	6
94	90	40	5	6	94	53	76	14	6
94	89	43	0	0	94	52	76	19	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
94	51	77	3	0	94	14	78	14	6
94	50	77	7	6	94	13	78	15	6
94	49	77	10	6	94	12	78	15	6
94	48	77	13	0	94	11	78	15	6
94	47	77	14	6	94	10	78	15	0
94	46	77	15	6	94	9	78	14	6
94	45	77	15	6	94	8	78	14	0
94	44	77	15	6	94	7	78	13	0
94	43	77	15	6	94	6	78	11	6
94	42	77	15	6	94	5	78	8	6
94	41	77	16	0	94	4	78	5	0
94	40	77	16	0	94	3	78	0	6
94	39	77	16	0	94	2	77	14	6
94	38	77	16	6	94	1	77	8	0
94	37	77	17	0	94	0	77	4	0
94	36	77	17	6					
94	35	77	18	0	93	93	36	8	6
94	34	77	18	6	93	92	39	18	0
94	33	77	18	6	93	91	43	9	6
94	32	77	18	0	93	90	44	19	6
94	31	77	18	0	93	89	48	2	6
94	30	77	18	0	93	88	51	5	0
94	29	77	18	0	93	87	54	16	0
94	28	77	17	6	93	86	58	12	6
94	27	77	17	6	93	85	62	12	0
94	26	77	17	0	93	84	65	17	0
94	25	77	15	6	93	83	68	13	6
94	24	77	14	6	93	82	70	17	6
94	23	77	14	0	93	81	72	14	0
94	22	77	14	6	93	80	74	12	0
94	21	77	15	6	93	79	76	6	6
94	20	77	18	6	93	78	77	17	0
94	19	78	1	6	93	77	79	7	6
94	18	78	4	6	93	76	80	12	6
94	17	78	7	6	93	75	81	1	0
94	16	78	10	6	93	74	81	11	0
94	15	78	13	0	93	73	82	1	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
93	72	82	9	6	93	35	91	4	0
93	71	82	19	6	93	34	91	4	6
93	70	83	11	6	93	33	91	4	6
93	69	84	4	6	93	32	91	4	0
93	68	84	16	6	93	31	91	4	0
93	67	85	7	6	93	30	91	4	0
93	66	85	17	6	93	29	91	4	0
93	65	86	11	0	93	28	91	3	6
93	64	87	1	0	93	27	91	3	6
93	63	87	9	6	93	26	91	3	0
93	62	87	17	0	93	25	91	1	0
93	61	88	2	0	93	24	91	0	0
93	60	88	5	0	93	23	90	19	6
93	59	88	7	0	93	22	90	19	6
93	58	88	10	0	93	21	91	0	6
93	57	88	13	6	93	20	91	4	6
93	56	88	18	0	93	19	91	8	0
93	55	89	3	0	93	18	91	12	0
93	54	89	8	0	93	17	91	16	0
93	53	89	13	6	93	16	91	19	6
93	52	89	19	0	93	15	92	3	0
93	51	90	4	0	93	14	92	5	0
93	50	90	10	0	93	13	92	6	0
93	49	90	14	0	93	12	92	6	6
93	48	90	17	6	93	11	92	6	0
93	47	90	19	6	93	10	92	6	0
93	46	91	1	0	93	9	92	5	6
93	45	91	1	0	93	8	92	4	6
93	44	91	1	0	93	7	92	3	6
93	43	91	1	0	93	6	92	1	6
93	42	91	1	0	93	5	91	18	0
93	41	91	1	6	93	4	91	13	6
93	40	91	1	6	93	3	91	8	0
93	39	91	1	6	93	2	91	0	6
93	38	91	2	0	93	1	90	12	6
93	37	91	3	0	93	0	90	7	0
93	36	91	3	6					

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
92	92	43	16	6	92	55	102	7	0
92	91	47	17	6	92	54	102	13	6
92	90	49	13	6	92	53	103	0	0
92	89	53	5	0	92	52	103	6	6
92	88	56	16	6	92	51	103	13	0
92	87	60	18	6	92	50	104	0	0
92	86	65	6	6	92	49	104	5	6
92	85	69	19	6	92	48	104	9	6
92	84	73	16	6	92	47	104	12	6
92	83	77	4	0	92	46	104	14	0
92	82	79	18	0	92	45	104	14	6
92	81	82	2	6	92	44	104	14	6
92	80	84	8	0	92	43	104	14	6
92	79	86	10	0	92	42	104	15	0
92	78	88	7	6	92	41	104	15	0
92	77	90	4	6	92	40	104	15	0
92	76	91	15	0	92	39	104	15	6
92	75	92	7	0	92	38	104	16	0
92	74	93	0	0	92	37	104	17	0
92	73	93	12	0	92	36	104	17	6
92	72	94	3	0	92	35	104	18	6
92	71	94	15	0	92	34	104	19	0
92	70	95	9	6	92	33	104	19	0
92	69	96	5	0	92	32	104	18	6
92	68	96	19	6	92	31	104	18	6
92	67	97	13	0	92	30	104	18	6
92	66	98	6	0	92	29	104	18	0
92	65	99	2	0	92	28	104	18	0
92	64	99	14	6	92	27	104	17	6
92	63	100	5	0	92	26	104	17	0
92	62	100	14	6	92	25	104	15	0
92	61	101	1	0	92	24	104	13	6
92	60	101	5	0	92	23	104	13	0
92	59	101	8	0	92	22	104	13	0
92	58	101	11	6	92	21	104	14	0
92	57	101	16	0	92	20	104	18	6
92	56	102	1	0	92	19	105	3	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
92	18	105	7	6	91	75	104	10	0
92	17	105	12	6	91	74	105	6	0
92	16	105	17	0	91	73	106	1	0
92	15	106	1	0	91	72	106	14	0
92	14	106	4	0	91	71	107	8	6
92	13	106	5	6	91	70	108	6	0
92	12	106	6	0	91	69	109	4	6
92	11	106	6	0	91	68	110	2	0
92	10	106	5	6	91	67	110	18	6
92	9	106	5	0	91	66	111	14	0
92	8	106	4	0	91	65	112	13	0
92	7	106	2	6	91	64	113	8	6
92	6	106	0	6	91	63	114	2	0
92	5	105	16	6	91	62	114	13	6
92	4	105	11	0	91	61	115	1	6
92	3	105	4	0	91	60	115	6	6
92	2	104	15	0	91	59	115	10	6
92	1	104	5	0	91	58	115	15	0
92	0	103	18	0	91	57	116	0	0
					91	56	116	6	0
					91	55	116	13	6
91	91	52	9	6	91	54	117	1	0
91	90	54	11	0	91	53	117	9	0
91	89	58	11	6	91	52	117	17	6
91	88	62	13	6	91	51	118	5	0
91	87	67	6	6	91	50	118	13	6
91	86	72	7	6	91	49	119	0	6
91	85	77	14	6	91	48	119	5	6
91	84	82	5	0	91	47	119	9	0
91	83	86	5	0	91	46	119	11	6
91	82	89	9	6	91	45	119	12	0
91	81	92	3	0	91	44	119	12	0
91	80	94	17	6	91	43	119	12	6
91	79	97	7	6	91	42	119	12	6
91	78	99	12	6	91	41	119	13	0
91	77	101	17	0	91	40	119	12	6
91	76	103	14	0	91	39	119	13	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
91	38	119	13	6	91	1	119	2	0
91	37	119	15	0	91	0	118	13	0
91	36	119	16	0					
91	35	119	17	0	90	90	56	17	6
91	34	119	17	6	90	89	61	3	6
91	33	119	17	6	90	88	65	11	6
91	32	119	17	0	90	87	70	12	0
91	31	119	17	0	90	86	76	2	0
91	30	119	17	0	90	85	81	19	0
91	29	119	16	6	90	84	86	19	6
91	28	119	16	6	90	83	91	9	0
91	27	119	16	0	90	82	95	2	0
91	26	119	15	6	90	81	98	3	0
91	25	119	13	0	90	80	101	4	6
91	24	119	11	0	90	79	104	1	0
91	23	119	10	0	90	78	106	12	6
91	22	119	10	0	90	77	109	3	0
91	21	119	11	6	90	76	111	5	6
91	20	119	16	6	90	75	112	5	6
91	19	120	2	0	90	74	113	4	0
91	18	120	7	6	90	73	114	1	6
91	17	120	13	6	90	72	114	17	0
91	16	120	19	0	90	71	115	13	6
91	15	121	4	0	90	70	116	13	0
91	14	121	7	6	90	69	117	14	0
91	13	121	9	6	90	68	118	14	0
91	12	121	10	6	90	67	119	13	0
91	11	121	10	6	90	66	120	10	6
91	10	121	10	0	90	65	121	12	6
91	9	121	9	0	90	64	122	10	6
91	8	121	8	6	90	63	123	6	0
91	7	121	6	6	90	62	123	19	6
91	6	121	4	0	90	61	124	9	0
91	5	120	19	0	90	60	124	15	6
91	4	120	12	6	90	59	125	0	0
91	3	120	4	6	90	58	125	5	0
91	2	119	14	0	90	57	125	11	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
90	56	125	18	0	90	19	130	5	6
90	55	126	6	6	90	18	130	12	0
90	54	126	15	0	90	17	130	19	0
90	53	127	4	0	90	16	131	5	6
90	52	127	13	6	90	15	131	11	0
90	51	128	2	6	90	14	131	15	6
90	50	128	12	6	90	13	131	18	0
90	49	129	0	6	90	12	131	19	0
90	48	129	6	6	90	11	131	19	0
90	47	129	10	6	90	10	131	18	6
90	46	129	13	6	90	9	131	18	0
90	45	129	14	0	90	8	131	17	0
90	44	129	14	6	90	7	131	15	0
90	43	129	15	0	90	6	131	12	0
90	42	129	15	0	90	5	131	6	6
90	41	129	15	6	90	4	130	19	6
90	40	129	15	6	90	3	130	10	0
90	39	129	16	0	90	2	129	18	0
90	38	129	16	6	90	1	129	4	6
90	37	129	18	0	90	0	128	14	0
90	36	129	19	0					
90	35	130	0	0	89	89	65	18	0
90	34	130	1	0	89	88	70	14	6
90	33	130	1	0	89	87	76	5	0
90	32	130	0	6	89	86	82	6	6
90	31	130	0	6	89	85	88	16	6
90	30	130	0	0	89	84	94	9	6
90	29	130	0	0	89	83	99	10	6
90	28	130	0	0	89	82	103	14	6
90	27	129	19	6	89	81	107	4	6
90	26	129	19	0	89	80	110	15	0
90	25	129	16	0	89	79	114	0	0
90	24	129	14	0	89	78	116	19	6
90	23	129	13	0	89	77	119	17	0
90	22	129	12	6	89	76	122	7	0
90	21	129	14	0	89	75	123	11	0
90	20	129	19	6	89	74	124	13	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
89	73	125	14	0	89	36	144	5	0
89	72	126	12	0	89	35	144	6	6
89	71	127	11	6	89	34	144	7	0
89	70	128	13	6	89	33	144	7	6
89	69	129	17	6	89	32	144	7	0
89	68	131	1	0	89	31	144	7	0
89	67	132	3	0	89	30	144	6	6
89	66	133	3	6	89	29	144	6	6
89	65	134	9	0	89	28	144	6	0
89	64	135	10	0	89	27	144	5	6
89	63	136	8	0	89	26	144	5	0
89	62	137	4	0	89	25	144	1	6
89	61	137	15	6	89	24	143	19	6
89	60	138	3	0	89	23	143	18	0
89	59	138	8	6	89	22	143	18	0
89	58	138	15	0	89	21	143	19	6
89	57	139	2	0	89	20	144	5	6
89	56	139	10	0	89	19	144	12	6
89	55	139	19	6	89	18	144	19	6
89	54	140	9	6	89	17	145	7	6
89	53	141	0	0	89	16	145	15	0
89	52	141	11	0	89	15	146	2	0
89	51	142	1	6	89	14	146	7	0
89	50	142	13	0	89	13	146	10	6
89	49	143	2	0	89	12	146	11	6
89	48	143	9	6	89	11	146	12	0
89	47	143	14	6	89	10	146	11	6
89	46	143	18	6	89	9	146	10	6
89	45	143	19	6	89	8	146	9	6
89	44	144	0	0	89	7	146	7	6
89	43	144	0	6	89	6	146	4	0
89	42	144	0	6	89	5	145	18	0
89	41	144	1	6	89	4	145	10	0
89	40	144	1	0	89	3	144	19	0
89	39	144	1	6	89	2	144	5	6
89	38	144	2	6	89	1	143	10	0
89	37	144	3	6	89	0	142	17	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
88	88	76	1	0	88	51	157	9	0
88	87	82	2	6	88	50	158	2	6
88	86	88	17	6	88	49	158	13	6
88	85	96	1	6	88	48	159	2	0
88	84	102	8	6	88	47	159	8	6
88	83	108	3	0	88	46	159	13	0
88	82	112	18	6	88	45	159	14	6
88	81	116	19	6	88	44	159	15	6
88	80	121	0	0	88	43	159	16	0
88	79	124	14	6	88	42	159	16	6
88	78	128	3	0	88	41	159	17	0
88	77	131	9	6	88	40	159	17	0
88	76	134	7	6	88	39	159	17	6
88	75	135	16	6	88	38	159	18	0
88	74	137	3	6	88	37	160	0	0
88	73	138	7	6	88	36	160	1	6
88	72	139	8	6	88	35	160	3	0
88	71	140	11	0	88	34	160	4	0
88	70	141	17	0	88	33	160	4	0
88	69	143	4	6	88	32	160	4	0
88	68	144	11	6	88	31	160	3	6
88	67	145	17	0	88	30	160	3	6
88	66	147	1	0	88	29	160	3	0
88	65	148	10	0	88	28	160	3	0
88	64	149	14	6	88	27	160	2	6
88	63	150	15	6	88	26	160	1	6
88	62	151	14	6	88	25	159	18	0
88	61	152	8	6	88	24	159	15	0
88	60	152	17	6	88	23	159	13	6
88	59	153	4	6	88	22	159	13	6
88	58	153	12	0	88	21	159	15	0
88	57	154	0	0	88	20	160	1	6
88	56	154	9	6	88	19	160	9	6
88	55	155	0	6	88	18	160	17	6
88	54	155	12	0	88	17	161	7	0
88	53	156	4	6	88	16	161	15	6
88	52	156	17	0	88	15	162	3	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
88	14	162	10	0	87	67	162	0	6
88	13	162	14	0	87	66	163	9	0
88	12	162	15	6	87	65	165	2	6
88	11	162	16	0	87	64	166	11	6
88	10	162	16	0	87	63	167	16	6
88	9	162	15	0	87	62	168	19	0
88	8	162	13	6	87	61	169	15	6
88	7	162	11	6	87	60	170	7	0
88	6	162	7	6	87	59	170	15	6
88	5	162	0	6	87	58	171	4	6
88	4	161	11	0	87	57	171	14	0
88	3	160	19	0	87	56	172	5	0
88	2	160	3	6	87	55	172	17	6
88	1	159	5	6	87	54	173	11	6
88	0	158	11	0	87	53	174	5	6
					87	52	175	0	6
					87	51	175	14	6
87	87	88	18	0	87	50	176	10	0
87	86	96	7	6	87	49	177	3	6
87	85	104	9	0	87	48	177	13	6
87	84	111	12	6	87	47	178	1	6
87	83	118	3	0	87	46	178	7	0
87	82	123	13	0	87	45	178	9	0
87	81	128	6	6	87	44	178	10	6
87	80	132	19	6	87	43	178	11	0
87	79	137	5	6	87	42	178	11	6
87	78	141	5	0	87	41	178	12	6
87	77	145	2	0	87	40	178	12	6
87	76	148	9	6	87	39	178	13	0
87	75	150	5	6	87	38	178	14	0
87	74	151	17	6	87	37	178	15	6
87	73	153	6	6	87	36	178	17	6
87	72	154	11	6	87	35	178	19	6
87	71	155	17	6	87	34	179	0	6
87	70	157	7	6	87	33	179	1	0
87	69	158	19	6	87	32	179	0	6
87	68	160	11	0	87	31	179	0	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
87	30	179	0	0	86	82	135	16	0
87	29	179	0	0	86	81	141	5	0
87	28	178	19	6	86	80	146	12	6
87	27	178	19	0	86	79	151	13	6
87	26	178	18	0	86	78	156	6	0
87	25	178	13	6	86	77	160	16	0
87	24	178	10	6	86	76	164	15	6
87	23	178	8	6	86	75	166	19	0
87	22	178	8	6	86	74	168	18	0
87	21	178	10	0	86	73	170	12	6
87	20	178	17	6	86	72	172	2	6
87	19	179	6	6	86	71	173	13	6
87	18	179	16	0	86	70	175	8	6
87	17	180	7	0	86	69	177	6	0
87	16	180	17	0	86	68	179	3	0
87	15	181	6	6	86	67	180	18	0
87	14	181	14	0	86	66	182	11	6
87	13	181	19	0	86	65	184	11	0
87	12	182	1	6	86	64	186	5	0
87	11	182	2	0	86	63	187	15	0
87	10	182	2	0	86	62	189	1	6
87	9	182	1	0	86	61	190	2	0
87	8	181	19	6	86	60	190	16	0
87	7	181	17	0	86	59	191	6	6
87	6	181	12	6	86	58	191	17	6
87	5	181	4	6	86	57	192	9	0
87	4	180	14	0	86	56	193	1	6
87	3	179	19	6	86	55	193	16	6
87	2	179	1	6	86	54	194	12	6
87	1	178	1	0	86	53	195	9	6
87	0	177	4	0	86	52	196	7	0
					86	51	197	4	0
					86	50	198	2	0
86	86	104	15	0	86	49	198	18	0
86	85	113	16	6	86	48	199	10	6
86	84	121	19	6	86	47	200	0	0
86	83	129	9	0	86	46	200	7	0

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s	d.			£	s	d.
86	45	200	9	6	86	8	204	14	6
86	44	200	11	6	86	7	204	11	6
86	43	200	12	6	86	6	204	6	0
86	42	200	13	6	86	5	203	17	6
86	41	200	14	6	86	4	203	4	6
86	40	200	14	0	86	3	202	8	0
86	39	200	15	0	86	2	201	7	6
86	38	200	16	0	86	1	200	3	0
86	37	200	18	0	86	0	199	2	6
86	36	201	0	6					
86	35	201	2	6	85	85	124	1	0
86	34	201	3	6	85	84	133	6	6
86	33	201	4	6	85	83	141	18	6
86	32	201	4	0	85	82	149	6	0
86	31	201	3	6	85	81	155	13	6
86	30	201	3	6	85	80	161	19	0
86	29	201	3	0	85	79	167	16	6
86	28	201	3	0	85	78	173	5	6
86	27	201	2	0	85	77	178	11	0
86	26	201	1	0	85	76	183	5	0
86	25	200	16	6	85	75	185	19	0
86	24	200	12	6	85	74	188	6	6
86	23	200	10	6	85	73	190	8	0
86	22	200	9	6	85	72	192	4	6
86	21	200	11	6	85	71	194	1	6
86	20	201	0	0	85	70	196	2	6
86	19	201	10	0	85	69	198	6	6
86	18	202	1	6	85	68	200	10	0
86	17	202	14	0	85	67	202	11	6
86	16	203	6	0	85	66	204	11	0
86	15	203	17	6	85	65	206	17	6
86	14	204	6	6	85	64	208	18	6
86	13	204	12	6	85	63	210	14	6
86	12	204	15	6	85	62	212	6	6
86	11	204	17	0	85	61	213	11	0
86	10	204	17	0	85	60	214	9	0
86	9	204	16	0	85	59	215	2	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
85	58	215	15	6	85	21	226	5	0
85	57	216	9	0	85	20	226	15	0
85	56	217	4	6	85	19	227	6	6
85	55	218	2	0	85	18	227	19	6
85	54	219	1	0	85	17	228	14	6
85	53	220	1	0	85	16	229	9	0
85	52	221	1	6	85	15	230	2	6
85	51	222	2	0	85	14	230	13	6
85	50	223	3	6	85	13	231	1	0
85	49	224	2	6	85	12	231	5	6
85	48	224	18	0	85	11	231	7	0
85	47	225	9	6	85	10	231	7	6
85	46	225	18	0	85	9	231	6	6
85	45	226	2	0	85	8	231	4	6
85	44	226	4	6	85	7	231	1	0
85	43	226	6	0	85	6	230	15	0
85	42	226	7	0	85	5	230	5	0
85	41	226	8	6	85	4	229	10	6
85	40	226	8	6	85	3	228	11	0
85	39	226	9	0	85	2	227	7	0
85	38	226	10	6	85	1	225	18	0
85	37	226	13	0	85	0	224	14	0
85	36	226	15	6					
85	35	226	18	0	84	84	143	16	0
85	34	226	19	6	84	83	153	11	0
85	33	227	0	6	84	82	162	0	6
85	32	227	0	6	84	81	169	7	6
85	31	227	0	0	84	80	176	12	6
85	30	226	19	6	84	79	183	9	0
85	29	226	19	6	84	78	189	15	6
85	28	226	19	0	84	77	195	18	6
85	27	226	18	0	84	76	201	8	6
85	26	226	16	6	84	75	204	14	6
85	25	226	11	6	84	74	207	12	0
85	24	226	7	0	84	73	210	2	6
85	23	226	4	0	84	72	212	6	0
85	22	226	3	6	84	71	214	9	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
84	70	216	17	6	84	33	253	13	0
84	69	219	9	0	84	32	253	13	6
84	68	222	0	0	84	31	253	13	0
84	67	224	9	0	84	30	253	12	6
84	66	226	15	6	84	29	253	12	0
84	65	229	10	0	84	28	253	11	6
84	64	231	18	0	84	27	253	10	6
84	63	234	1	0	84	26	253	9	6
84	62	235	19	6	84	25	253	3	0
84	61	237	9	6	84	24	252	18	0
84	60	238	11	6	84	23	252	14	6
84	59	239	8	0	84	22	252	13	6
84	58	240	4	0	84	21	252	15	6
84	57	241	0	6	84	20	253	6	0
84	56	241	18	6	84	19	253	19	6
84	55	242	19	6	84	18	254	14	6
84	54	244	1	6	84	17	255	12	0
84	53	245	5	0	84	16	256	9	0
84	52	246	9	6	84	15	257	5	0
84	51	247	13	0	84	14	257	18	6
84	50	248	19	0	84	13	258	8	0
84	49	250	1	6	84	12	258	13	6
84	48	251	0	0	84	11	258	16	0
84	47	251	14	6	84	10	258	16	6
84	46	252	1	0	84	9	258	16	0
84	45	252	10	6	84	8	258	14	0
84	44	252	14	0	84	7	258	10	0
84	43	252	16	0	84	6	258	3	0
84	42	252	17	6	84	5	257	11	6
84	41	252	19	0	84	4	256	14	6
84	40	252	19	0	84	3	255	12	6
84	39	253	0	0	84	2	254	4	0
84	38	253	1	6	84	1	252	10	6
84	37	253	4	6	84	0	251	2	0
84	36	253	7	6					
84	35	253	10	0	83	83	164	10	0
84	34	253	12	0	83	82	174	2	6

TABLE II. — *continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
83	81	182	11	0	83	44	280	2	0
83	80	190	16	6	83	43	280	5	0
83	79	198	13	0	83	42	280	7	0
83	78	205	19	0	83	41	280	9	0
83	77	213	1	0	83	40	280	9	6
83	76	219	9	0	83	39	280	10	6
83	75	223	8	6	83	38	280	12	0
83	74	226	17	6	83	37	280	15	6
83	73	229	17	6	83	36	280	18	6
83	72	232	9	0	83	35	281	2	0
83	71	235	0	6	83	34	281	4	6
83	70	237	16	6	83	33	281	6	0
83	69	240	16	0	83	32	281	6	0
83	68	243	15	0	83	31	281	5	6
83	67	246	12	6	83	30	281	5	6
83	66	249	7	0	83	29	281	5	0
83	65	252	10	0	83	28	281	4	6
83	64	255	6	6	83	27	281	3	6
83	63	257	17	0	83	26	281	1	6
83	62	260	3	0	83	25	280	15	0
83	61	261	19	0	83	24	280	9	0
83	60	263	6	0	83	23	280	5	0
83	59	264	6	6	83	22	280	3	6
83	58	265	6	0	83	21	280	5	0
83	57	266	5	6	83	20	280	17	0
83	56	267	6	6	83	19	281	12	0
83	55	268	11	0	83	18	282	9	6
83	54	269	16	6	83	17	283	9	6
83	53	271	4	0	83	16	284	9	6
83	52	272	12	6	83	15	285	8	6
83	51	274	0	6	83	14	286	4	0
83	50	275	11	0	83	13	286	16	0
83	49	276	17	6	83	12	287	3	0
83	48	277	19	6	83	11	287	6	6
83	47	278	17	0	83	10	287	8	0
83	46	279	10	6	83	9	287	7	0
83	45	279	17	6	83	8	287	5	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
83	7	287	1	0	82	54	295	1	0
83	6	286	13	6	82	53	296	12	6
83	5	286	0	0	82	52	298	5	6
83	4	285	1	0	82	51	299	18	0
83	3	283	15	6	82	50	301	13	0
83	2	282	3	0	82	49	303	4	6
83	1	280	4	0	82	48	304	10	6
83	0	278	10	6	82	47	305	11	6
					82	46	306	8	0
82	82	184	16	6	82	45	306	17	0
82	81	194	6	6	82	44	307	3	0
82	80	203	13	6	82	43	307	7	0
82	79	212	11	0	82	42	307	9	6
82	78	220	16	6	82	41	307	12	0
82	77	228	18	0	82	40	307	13	0
82	76	236	4	6	82	39	307	14	0
82	75	240	18	6	82	38	307	16	0
82	74	245	0	6	82	37	307	19	6
82	73	248	11	6	82	36	308	3	6
82	72	251	12	6	82	35	308	7	6
82	71	254	12	6	82	34	308	10	6
82	70	257	16	6	82	33	308	12	0
82	69	261	4	6	82	32	308	12	6
82	68	264	12	6	82	31	308	12	0
82	67	267	18	6	82	30	308	12	0
82	66	271	1	6	82	29	308	11	6
82	65	274	14	0	82	28	308	10	6
82	64	277	19	0	82	27	308	9	6
82	63	280	18	0	82	26	308	7	6
82	62	283	12	0	82	25	308	0	0
82	61	285	14	6	82	24	307	13	6
82	60	287	7	0	82	23	307	9	0
82	59	288	12	0	82	22	307	6	6
82	58	289	16	0	82	21	307	8	6
82	57	290	19	0	82	20	308	1	6
82	56	292	3	6	82	19	308	18	0
82	55	293	11	6	82	18	309	17	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
82	17	311	0	6	81	63	303	3	0
82	16	312	3	6	81	62	306	5	6
82	15	313	5	6	81	61	308	15	6
82	14	314	4	0	81	60	310	14	0
82	13	314	18	0	81	59	312	4	6
82	12	315	7	0	81	58	313	12	6
82	11	315	12	0	81	57	314	19	6
82	10	315	14	0	81	56	316	8	0
82	9	315	14	0	81	55	318	0	0
82	8	315	12	0	81	54	319	14	0
82	7	315	7	6	81	53	321	9	6
82	6	314	19	0	81	52	323	7	6
82	5	314	4	0	81	51	325	4	6
82	4	313	2	6	81	50	327	4	6
82	3	311	13	6	81	49	329	0	6
82	2	309	16	6	81	48	330	11	6
82	1	307	12	6	81	47	331	16	0
82	0	305	13	6	81	46	332	16	0
					81	45	333	7	0
81	81	204	17	6	81	44	333	15	0
81	80	215	5	6	81	43	334	0	6
81	79	225	3	6	81	42	334	4	0
81	78	234	9	0	81	41	334	7	0
81	77	243	10	6	81	40	334	8	0
81	76	251	16	0	81	39	334	9	6
81	75	257	6	0	81	38	334	12	0
81	74	262	1	0	81	37	334	16	0
81	73	266	4	0	81	36	335	0	6
81	72	269	15	0	81	35	335	5	0
81	71	273	4	6	81	34	335	8	0
81	70	276	18	0	81	33	335	10	0
81	69	280	14	6	81	32	335	11	0
81	68	284	11	6	81	31	335	10	6
81	67	288	6	6	81	30	335	10	6
81	66	291	18	6	81	29	335	10	0
81	65	296	1	0	81	28	335	9	6
81	64	299	15	0	81	27	335	8	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
81	26	335	6	0	80	71	292	3	0
81	25	334	17	6	80	70	296	6	6
81	24	334	10	6	80	69	300	13	0
81	23	334	5	0	80	68	305	0	0
81	22	334	2	0	80	67	309	4	6
81	21	334	4	0	80	66	313	6	0
81	20	334	17	6	80	65	317	18	6
81	19	335	16	0	80	64	322	3	0
81	18	336	18	0	80	63	326	1	0
81	17	338	3	0	80	62	329	12	6
81	16	339	9	6	80	61	332	10	6
81	15	340	15	0	80	60	334	16	0
81	14	341	16	6	80	59	336	12	0
81	13	342	13	6	80	58	338	5	6
81	12	343	4	6	80	57	339	17	0
81	11	343	11	0	80	56	341	10	0
81	10	343	14	0	80	55	343	6	6
81	9	343	14	0	80	54	345	5	0
81	8	343	12	6	80	53	347	5	6
81	7	343	7	6	80	52	349	8	0
81	6	342	18	0	80	51	351	10	6
81	5	342	2	0	80	50	353	16	0
81	4	340	18	0	80	49	355	17	6
81	3	339	5	6	80	48	357	13	0
81	2	337	4	6	80	47	359	2	0
81	1	334	14	6	80	46	360	5	6
81	0	332	10	0	80	45	360	19	6
					80	44	361	9	6
80	80	226	15	0	80	43	361	16	6
80	79	237	14	0	80	42	362	1	6
80	78	248	0	6	80	41	362	5	6
80	77	258	3	0	80	40	362	7	0
80	76	267	8	6	80	39	362	9	0
80	75	273	15	0	80	38	362	12	0
80	74	279	5	0	80	37	362	16	0
80	73	284	1	0	80	36	363	1	0
80	72	288	3	6	80	35	363	6	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
80	34	363	10	0	79	78	261	2	6
80	33	363	12	0	79	77	272	6	6
80	32	363	13	0	79	76	282	12	6
80	31	363	13	0	79	75	289	16	6
80	30	363	13	0	79	74	296	2	0
80	29	363	12	6	79	73	301	12	0
80	28	363	12	0	79	72	306	7	0
80	27	363	10	6	79	71	310	18	0
80	26	363	8	0	79	70	315	12	0
80	25	362	19	0	79	69	320	10	0
80	24	362	11	0	79	68	325	7	0
80	23	362	5	0	79	67	330	2	0
80	22	362	1	6	79	66	334	14	0
80	21	362	3	0	79	65	339	17	6
80	20	362	18	0	79	64	344	13	0
80	19	363	17	6	79	63	349	1	0
80	18	365	2	0	79	62	353	2	0
80	17	366	10	0	79	61	356	9	0
80	16	367	19	6	79	60	359	2	6
80	15	369	8	6	79	59	361	5	0
80	14	370	13	6	79	58	363	4	0
80	13	371	13	0	79	57	365	1	0
80	12	372	6	6	79	56	366	19	0
80	11	372	15	0	79	55	369	0	0
80	10	372	19	0	79	54	371	3	6
80	9	373	0	6	79	53	373	9	6
80	8	372	19	0	79	52	375	17	6
80	7	372	14	0	79	51	378	5	6
80	6	372	4	0	79	50	380	17	0
80	5	371	6	0	79	49	383	4	0
80	4	369	19	6	79	48	385	5	0
80	3	368	3	6	79	47	386	18	6
80	2	365	17	6	79	46	388	6	0
80	1	363	2	0	79	45	389	3	6
80	0	360	11	6	79	44	389	16	0
					79	43	390	5	0
79	79	249	14	6	79	42	390	11	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
79	41	390	16	6	79	4	399	16	6
79	40	390	18	6	79	3	397	17	0
79	39	391	1	0	79	2	395	6	0
79	38	391	4	6	79	1	392	4	0
79	37	391	9	6	79	0	389	7	6
79	36	391	15	0					
79	35	392	0	6	78	78	273	12	0
79	34	392	4	6	78	77	285	17	6
79	33	392	7	6	78	76	297	5	0
79	32	392	8	6	78	75	305	7	0
79	31	392	9	0	78	74	312	9	6
79	30	392	9	0	78	73	318	14	6
79	29	392	8	6	78	72	324	2	6
79	28	392	8	0	78	71	329	6	0
79	27	392	6	6	78	70	334	12	0
79	26	392	4	0	78	69	340	1	0
79	25	391	14	0	78	68	345	9	6
79	24	391	5	0	78	67	350	15	6
79	23	390	18	0	78	66	355	18	6
79	22	390	14	6	78	65	361	13	6
79	21	390	15	6	78	64	367	0	0
79	20	391	11	6	78	63	371	19	0
79	19	392	12	6	78	62	376	10	6
79	18	393	19	0	78	61	380	7	6
79	17	395	10	6	78	60	383	9	0
79	16	397	3	6	78	59	385	18	6
79	15	398	16	0	78	58	388	4	0
79	14	400	4	6	78	57	390	7	0
79	13	401	7	0	78	56	392	10	6
79	12	402	3	6	78	55	394	17	0
79	11	402	13	6	78	54	397	6	0
79	10	402	19	6	78	53	399	17	6
79	9	403	1	6	78	52	402	11	6
79	8	403	1	0	78	51	405	5	0
79	7	402	15	6	78	50	408	3	0
79	6	402	5	0	78	49	410	16	0
79	5	401	5	6	78	48	413	2	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
78	47	415	1	6	78	10	433	10	6
78	46	416	13	6	78	9	433	14	0
78	45	417	14	6	78	8	433	14	0
78	44	418	10	0	78	7	433	9	0
78	43	419	1	6	78	6	432	17	6
78	42	419	9	0	78	5	431	16	6
78	41	419	16	0	78	4	430	5	0
78	40	419	19	0	78	3	428	2	0
78	39	420	2	0	78	2	425	5	6
78	38	420	6	0	78	1	421	17	6
78	37	420	11	6	78	0	418	14	0
78	36	420	17	6					
78	35	421	4	0	77	77	299	5	6
78	34	421	9	0	77	76	311	15	0
78	33	421	12	0	77	75	320	16	6
78	32	421	13	6	77	74	328	16	0
78	31	421	14	0	77	73	335	17	0
78	30	421	14	0	77	72	341	19	6
78	29	421	14	0	77	71	347	16	0
78	28	421	13	6	77	70	353	14	6
78	27	421	11	6	77	69	359	16	0
78	26	421	9	0	77	68	365	17	0
78	25	420	18	6	77	67	371	15	0
78	24	420	8	6	77	66	377	9	6
78	23	420	1	0	77	65	383	17	0
78	22	419	16	6	77	64	389	15	6
78	21	419	17	6	77	63	395	6	0
78	20	420	14	0	77	62	400	9	0
78	19	421	17	0	77	61	404	16	0
78	18	423	6	0	77	60	408	6	6
78	17	425	0	0	77	59	411	4	6
78	16	426	16	6	77	58	413	17	0
78	15	428	12	6	77	57	416	6	0
78	14	430	5	0	77	56	418	16	0
78	13	431	11	6	77	55	421	9	0
78	12	432	10	6	77	54	424	4	0
78	11	433	3	0	77	53	427	1	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
77	52	430	1	6	77	15	459	12	6
77	51	433	2	0	77	14	461	8	6
77	50	436	6	0	77	13	462	18	6
77	49	439	5	6	77	12	464	0	6
77	48	441	18	6	77	11	464	16	0
77	47	444	3	6	77	10	465	5	6
77	46	446	0	0	77	9	465	10	6
77	45	447	5	0	77	8	465	11	6
77	44	448	4	0	77	7	465	6	6
77	43	448	18	0	77	6	464	15	0
77	42	449	8	0	77	5	463	12	6
77	41	449	16	6	77	4	461	18	0
77	40	450	0	6	77	3	459	11	0
77	39	450	4	6	77	2	456	10	0
77	38	450	9	6	77	1	452	15	0
77	37	450	16	0	77	0	449	4	6
77	36	451	2	6					
77	35	451	9	6	76	76	325	6	6
77	34	451	15	0	76	75	335	7	0
77	33	451	19	0	76	74	344	5	0
77	32	452	0	6	76	73	352	2	6
77	31	452	1	6	76	72	359	0	0
77	30	452	1	6	76	71	365	10	0
77	29	452	1	6	76	70	372	2	6
77	28	452	1	0	76	69	378	17	6
77	27	451	19	6	76	68	385	11	0
77	26	451	16	6	76	67	392	1	0
77	25	451	5	0	76	66	398	8	0
77	24	450	14	0	76	65	405	8	0
77	23	450	5	6	76	64	411	19	6
77	22	450	0	6	76	63	418	2	6
77	21	450	1	6	76	62	423	17	0
77	20	450	19	0	76	61	428	15	0
77	19	452	3	6	76	60	432	15	6
77	18	453	14	6	76	59	436	1	6
77	17	455	12	0	76	58	439	2	0
77	16	457	12	0	76	57	441	18	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
76	56	444	15	0	76	19	482	10	6
76	55	447	14	6	76	18	484	4	0
76	54	450	16	0	76	17	486	4	6
76	53	454	0	6	76	16	488	8	6
76	52	457	7	0	76	15	490	12	6
76	51	460	14	0	76	14	492	12	6
76	50	464	5	6	76	13	494	6	6
76	49	467	12	0	76	12	495	12	0
76	48	470	11	6	76	11	496	10	0
76	47	473	2	0	76	10	497	2	0
76	46	475	4	6	76	9	497	8	6
76	45	476	13	6	76	8	497	11	0
76	44	477	16	6	76	7	497	7	0
76	43	478	13	6	76	6	496	14	6
76	42	479	6	0	76	5	495	11	0
76	41	479	16	0	76	4	493	14	0
76	40	480	1	6	76	3	491	3	0
76	39	480	7	0	76	2	487	16	6
76	38	480	12	6	76	1	483	15	0
76	37	481	0	0	76	0	479	17	6
76	36	481	7	6					
76	35	481	15	0	75	75	346	5	6
76	34	482	1	6	75	74	356	0	0
76	33	482	6	0	75	73	364	13	0
76	32	482	8	0	75	72	372	5	0
76	31	482	9	0	75	71	379	8	6
76	30	482	9	6	75	70	386	14	0
76	29	482	10	0	75	69	394	1	0
76	28	482	9	0	75	68	401	7	0
76	27	482	7	6	75	67	408	9	6
76	26	482	4	6	75	66	415	7	6
76	25	481	12	0	75	65	423	0	0
76	24	481	0	6	75	64	430	3	0
76	23	480	11	0	75	63	436	17	6
76	22	480	5	6	75	62	443	4	0
76	21	480	6	0	75	61	448	12	0
76	20	481	4	6	75	60	453	2	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
75	59	456	17	0	75	22	506	9	6
75	58	460	5	0	75	21	506	10	0
75	57	463	9	0	75	20	507	9	0
75	56	466	12	0	75	19	508	16	6
75	55	469	18	6	75	18	510	12	0
75	54	473	6	6	75	17	512	15	6
75	53	476	17	0	75	16	515	2	6
75	52	480	10	6	75	15	517	10	0
75	51	484	4	0	75	14	519	14	0
75	50	488	2	0	75	13	521	11	6
75	49	491	15	0	75	12	523	0	6
75	48	495	1	0	75	11	524	1	6
75	47	497	17	6	75	10	524	16	0
75	46	500	5	6	75	9	525	4	6
75	45	501	19	6	75	8	525	8	0
75	44	503	6	0	75	7	525	4	6
75	43	504	6	6	75	6	524	12	6
75	42	505	1	6	75	5	523	7	6
75	41	505	14	0	75	4	521	9	0
75	40	506	1	0	75	3	518	14	6
75	39	506	7	6	75	2	515	3	0
75	38	506	14	6	75	1	510	15	0
75	37	507	2	6	75	0	506	11	0
75	36	507	11	0					
75	35	507	19	6	74	74	366	10	6
75	34	508	6	6	74	73	375	19	0
75	33	508	11	6	74	72	384	5	0
75	32	508	14	6	74	71	392	2	0
75	31	508	15	6	74	70	400	0	0
75	30	508	16	6	74	69	408	0	0
75	29	508	17	0	74	68	415	18	6
75	28	508	16	0	74	67	423	12	6
75	27	508	14	6	74	66	431	2	6
75	26	508	11	6	74	65	439	7	0
75	25	507	18	6	74	64	447	2	0
75	24	507	6	0	74	63	454	8	0
75	23	506	16	0	74	62	461	5	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
74	61	467	4	6	74	24	532	12	0
74	60	472	4	0	74	23	532	1	0
74	59	476	7	6	74	22	531	14	0
74	58	480	4	0	74	21	531	14	0
74	57	483	15	0	74	20	532	14	0
74	56	487	5	6	74	19	534	2	6
74	55	490	18	6	74	18	536	0	0
74	54	494	13	6	74	17	538	6	0
74	53	498	11	0	74	16	540	16	0
74	52	502	11	0	74	15	543	7	6
74	51	506	11	0	74	14	545	15	6
74	50	510	16	0	74	13	547	16	6
74	49	514	16	0	74	12	549	8	6
74	48	518	8	0	74	11	550	12	6
74	47	521	11	0	74	10	551	9	6
74	46	524	4	0	74	9	552	0	0
74	45	526	3	0	74	8	552	5	0
74	44	527	14	0	74	7	552	3	0
74	43	528	17	6	74	6	551	11	0
74	42	529	15	6	74	5	550	5	6
74	41	530	10	6	74	4	548	4	6
74	40	531	0	0	74	3	545	7	6
74	39	531	8	0	74	2	541	11	0
74	38	531	16	0	74	1	536	17	6
74	37	532	5	6	74	0	532	7	0
74	36	532	15	0					
74	35	533	4	0	73	73	386	2	0
74	34	533	12	0	73	72	395	2	0
74	33	533	17	6	73	71	403	12	0
74	32	534	0	6	73	70	412	3	0
74	31	534	2	0	73	69	420	15	6
74	30	534	3	6	73	68	429	5	6
74	29	534	4	0	73	67	437	11	6
74	28	534	3	6	73	66	445	13	6
74	27	534	2	0	73	65	454	10	0
74	26	533	18	6	73	64	462	16	6
74	25	533	5	0	73	63	470	14	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
73	62	478	3	0	73	25	557	12	0
73	61	484	12	0	73	24	556	18	0
73	60	490	1	6	73	23	556	6	6
73	59	494	14	0	73	22	555	19	0
73	58	498	18	6	73	21	555	18	6
73	57	502	17	6	73	20	556	19	0
73	56	506	15	6	73	19	558	9	0
73	55	510	15	6	73	18	560	8	0
73	54	514	17	6	73	17	562	16	6
73	53	519	1	6	73	16	565	10	0
73	52	523	8	6	73	15	568	4	6
73	51	527	15	6	73	14	570	16	0
73	50	532	7	6	73	13	573	0	6
73	49	536	14	0	73	12	574	16	0
73	48	540	13	0	73	11	576	3	0
73	47	544	1	6	73	10	577	2	6
73	46	547	0	6	73	9	577	15	0
73	45	549	4	6	73	8	578	2	0
73	44	550	19	6	73	7	578	1	0
73	43	552	7	0	73	6	577	9	6
73	42	553	8	0	73	5	576	3	6
73	41	554	6	0	73	4	574	1	0
73	40	554	17	6	73	3	571	1	0
73	39	555	7	0	73	2	567	0	6
73	38	555	16	6	73	1	562	1	0
73	37	556	7	6	73	0	557	4	6
73	36	556	18	0					
73	35	557	8	6	72	72	404	15	0
73	34	557	17	0	72	71	413	18	0
73	33	558	3	0	72	70	423	1	6
73	32	558	7	0	72	69	432	6	0
73	31	558	9	0	72	68	441	8	0
73	30	558	10	6	72	67	450	6	0
73	29	558	11	0	72	66	458	19	0
73	28	558	11	0	72	65	468	7	0
73	27	558	9	6	72	64	477	5	6
73	26	558	6	0	72	63	485	14	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
72	62	493	14	0	72	25	580	16	0
72	61	500	14	0	72	24	580	1	6
72	60	506	12	6	72	23	579	9	0
72	59	511	14	0	72	22	579	1	0
72	58	516	7	6	72	21	579	0	6
72	57	520	14	0	72	20	580	1	6
72	56	524	19	6	72	19	581	12	6
72	55	529	7	0	72	18	583	13	6
72	54	533	15	6	72	17	586	4	0
72	53	538	7	0	72	16	589	0	6
72	52	543	0	6	72	15	591	18	6
72	51	547	14	6	72	14	594	13	0
72	50	552	13	6	72	13	597	1	0
72	49	557	7	0	72	12	599	0	0
72	48	561	12	6	72	11	600	9	6
72	47	565	7	0	72	10	601	12	0
72	46	568	12	0	72	9	602	7	0
72	45	571	0	6	72	8	602	15	6
72	44	573	0	6	72	7	602	16	0
72	43	574	12	0	72	6	602	5	0
72	42	575	16	6	72	5	600	18	6
72	41	576	17	0	72	4	598	15	0
72	40	577	10	6	72	3	595	12	0
72	39	578	2	6	72	2	591	7	6
72	38	578	14	0	72	1	586	2	6
72	37	579	6	0	72	0	581	0	0
72	36	579	18	0					
72	35	580	9	6	71	71	423	13	6
72	34	580	19	0	71	70	433	9	0
72	33	581	6	0	71	69	443	5	6
72	32	581	10	0	71	68	453	0	0
72	31	581	12	6	71	67	462	9	6
72	30	581	14	6	71	66	471	13	6
72	29	581	15	6	71	65	481	14	0
72	28	581	15	6	71	64	491	3	6
72	27	581	14	0	71	63	500	3	6
72	26	581	10	6	71	62	508	14	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
71	61	516	4	6	71	24	602	19	0
71	60	522	13	6	71	23	602	6	0
71	59	528	4	0	71	22	601	17	6
71	58	533	5	6	71	21	601	16	6
71	57	538	0	6	71	20	602	18	0
71	56	542	13	0	71	19	604	10	6
71	55	547	8	6	71	18	606	12	6
71	54	552	4	6	71	17	609	6	0
71	53	557	3	0	71	16	612	5	0
71	52	562	4	0	71	15	615	6	0
71	51	567	4	6	71	14	618	4	6
71	50	572	10	6	71	13	620	15	6
71	49	577	11	0	71	12	622	17	6
71	48	582	3	0	71	11	624	10	6
71	47	586	4	6	71	10	625	15	0
71	46	589	15	0	71	9	626	12	6
71	45	592	9	0	71	8	627	3	0
71	44	594	13	0	71	7	627	5	0
71	43	596	8	6	71	6	626	15	0
71	42	597	17	0	71	5	625	8	6
71	41	599	1	0	71	4	623	3	6
71	40	599	17	0	71	3	619	18	0
71	39	600	11	0	71	2	615	10	0
71	38	601	4	0	71	1	610	0	0
71	37	601	18	0	71	0	604	11	6
71	36	602	11	6					
71	35	603	4	0	70	70	443	17	0
71	34	603	15	0	70	69	454	6	0
71	33	604	2	6	70	68	464	12	0
71	32	604	7	6	70	67	474	13	6
71	31	604	10	0	70	66	484	9	6
71	30	604	12	6	70	65	495	1	6
71	29	604	14	0	70	64	505	3	0
71	28	604	14	0	70	63	514	14	6
71	27	604	12	6	70	62	523	17	0
71	26	604	9	0	70	61	531	17	6
71	25	603	14	0	70	60	538	16	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
70	59	544	16	0	70	22	625	3	0
70	58	550	6	6	70	21	625	2	0
70	57	555	9	6	70	20	626	4	0
70	56	560	10	6	70	19	627	17	6
70	55	565	13	6	70	18	630	2	0
70	54	570	17	0	70	17	632	17	0
70	53	576	3	0	70	16	635	19	0
70	52	581	11	6	70	15	639	3	6
70	51	586	19	6	70	14	642	4	6
70	50	592	13	0	70	13	644	19	6
70	49	598	0	6	70	12	647	4	6
70	48	602	19	6	70	11	649	0	0
70	47	607	7	6	70	10	650	7	6
70	46	611	4	0	70	9	651	7	0
70	45	614	3	6	70	8	652	0	0
70	44	616	12	6	70	7	652	3	6
70	43	618	12	6	70	6	651	14	6
70	42	620	4	6	70	5	650	7	6
70	41	621	11	6	70	4	648	1	6
70	40	622	10	6	70	3	644	14	0
70	39	623	7	6	70	2	640	2	0
70	38	624	2	6	70	1	634	7	0
70	37	624	18	0	70	0	628	13	0
70	36	625	13	0					
70	35	626	7	6	69	69	465	7	0
70	34	626	19	0	69	68	476	5	6
70	33	627	8	0	69	67	486	19	0
70	32	627	13	6	69	66	497	7	0
70	31	627	17	0	69	65	508	11	0
70	30	627	19	6	69	64	519	4	6
70	29	628	1	0	69	63	529	8	0
70	28	628	1	6	69	62	539	2	0
70	27	628	0	6	69	61	547	13	6
70	26	627	17	0	69	60	555	2	6
70	25	627	1	6	69	59	561	11	6
70	24	626	5	6	69	58	567	11	0
70	23	625	12	6	69	57	573	3	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
69	56	578	12	0	69	19	651	15	6
69	55	584	3	0	69	18	654	1	6
69	54	589	15	0	69	17	656	19	0
69	53	595	8	6	69	16	660	3	6
69	52	601	4	6	69	15	663	11	6
69	51	607	0	6	69	14	666	16	0
69	50	613	2	0	69	13	669	14	0
69	49	618	17	0	69	12	672	2	6
69	48	624	3	6	69	11	674	1	0
69	47	628	18	0	69	10	675	11	6
69	46	633	1	0	69	9	676	13	6
69	45	636	5	6	69	8	677	8	6
69	44	639	0	0	69	7	677	13	0
69	43	641	4	6	69	6	677	5	0
69	42	643	0	6	69	5	675	18	6
69	41	644	11	6	69	4	673	11	6
69	40	645	13	6	69	3	670	1	6
69	39	646	12	6	69	2	665	6	0
69	38	647	10	6	69	1	659	5	6
69	37	648	8	0	69	0	653	6	0
69	36	649	5	0					
69	35	650	1	0	68	68	487	16	6
69	34	650	14	0	68	67	499	2	0
69	33	651	3	6	68	66	510	2	0
69	32	651	10	0	68	65	521	19	0
69	31	651	14	0	68	64	533	4	6
69	30	651	17	0	68	63	544	0	0
69	29	651	19	0	68	62	554	5	6
69	28	652	0	0	68	61	563	8	6
69	27	651	19	0	68	60	571	8	0
69	26	651	15	6	68	59	578	7	0
69	25	650	19	6	68	58	584	15	6
69	24	650	3	0	68	57	590	16	0
69	23	649	9	6	68	56	596	14	0
69	22	648	19	6	68	55	602	13	0
69	21	648	18	6	68	54	608	13	0
69	20	650	1	0	68	53	614	15	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
68	52	620	19	6	68	15	688	6	0
68	51	627	3	0	68	14	691	14	6
68	50	633	13	0	68	13	694	16	0
68	49	639	16	0	68	12	697	7	0
68	48	645	10	0	68	11	699	9	0
68	47	650	11	6	68	10	701	2	0
68	46	655	1	0	68	9	702	6	6
68	45	658	11	6	68	8	703	3	6
68	44	661	11	0	68	7	703	10	0
68	43	664	0	6	68	6	703	3	0
68	42	666	0	6	68	5	701	16	6
68	41	667	15	6	68	4	699	8	6
68	40	669	0	6	68	3	695	16	6
68	39	670	3	0	68	2	690	17	6
68	38	671	3	0	68	1	684	12	0
68	37	672	3	0	68	0	678	6	6
68	36	673	2	0					
68	35	673	19	6	67	67	510	19	6
68	34	674	14	6	67	66	522	11	6
68	33	675	5	0	67	65	535	1	0
68	32	675	12	6	67	64	546	19	6
68	31	675	17	6	67	63	558	7	0
68	30	676	1	0	67	62	569	4	6
68	29	676	3	6	67	61	578	19	0
68	28	676	4	6	67	60	587	9	0
68	27	676	3	6	67	59	594	18	0
68	26	676	0	6	67	58	601	16	0
68	25	675	4	0	67	57	608	6	0
68	24	674	7	0	67	56	614	12	0
68	23	673	12	6	67	55	621	0	6
68	22	673	2	6	67	54	627	9	0
68	21	673	1	0	67	53	633	19	0
68	20	674	4	0	67	52	640	12	0
68	19	676	0	0	67	51	647	4	0
68	18	678	8	0	67	50	654	2	0
68	17	681	8	0	67	49	660	13	6
68	16	684	15	0	67	48	666	15	0

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
67	47	672	4	0	67	10	726	15	6
67	46	677	0	6	67	9	728	2	6
67	45	680	17	0	67	8	729	1	6
67	44	684	2	0	67	7	729	10	0
67	43	686	16	6	67	6	729	4	0
67	42	689	1	0	67	5	727	18	0
67	41	691	0	0	67	4	725	9	6
67	40	692	8	6	67	3	721	15	0
67	39	693	14	0	67	2	716	12	6
67	38	694	17	0	67	1	710	2	0
67	37	695	19	6	67	0	703	11	0
67	36	697	0	6					
67	35	698	0	6	66	66	534	16	0
67	34	698	16	6	66	65	547	18	0
67	33	699	9	0	66	64	560	9	0
67	32	699	17	6	66	63	572	9	0
67	31	700	3	0	66	62	583	19	0
67	30	700	7	6	66	61	594	5	0
67	29	700	10	6	66	60	603	6	0
67	28	700	12	0	66	59	611	5	0
67	27	700	11	0	66	58	618	12	6
67	26	700	8	0	66	57	625	11	6
67	25	699	11	0	66	56	632	7	0
67	24	698	13	6	66	55	639	4	0
67	23	697	18	6	66	54	646	1	6
67	22	697	8	0	66	53	653	0	6
67	21	697	6	0	66	52	660	2	0
67	20	698	10	0	66	51	667	2	0
67	19	700	7	0	66	50	674	9	6
67	18	702	17	0	66	49	681	9	0
67	17	705	19	6	66	48	687	19	0
67	16	709	9	6	66	47	693	15	6
67	15	713	4	0	66	46	698	19	0
67	14	716	15	6	66	45	703	2	0
67	13	720	0	6	66	44	706	13	0
67	12	722	15	0	66	43	709	12	0
67	11	724	19	6	66	42	712	1	6

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
66	41	714	4	6	66	4	751	13	0
66	40	715	17	0	66	3	747	16	6
66	39	717	5	6	66	2	742	10	6
66	38	718	11	6	66	1	735	15	0
66	37	719	17	0	66	0	728	18	6
66	36	721	0	6					
66	35	722	2	6	65	65	561	13	6
66	34	723	0	6	65	64	574	17	6
66	33	723	14	6	65	63	587	11	0
66	32	724	4	0	65	62	599	13	6
66	31	724	11	0	65	61	610	12	0
66	30	724	16	0	65	60	620	4	6
66	29	724	19	6	65	59	628	14	0
66	28	725	1	6	65	58	636	12	6
66	27	725	1	0	65	57	644	1	0
66	26	724	18	0	65	56	651	6	0
66	25	724	0	6	65	55	658	12	6
66	24	723	3	0	65	54	665	19	0
66	23	722	7	0	65	53	673	7	6
66	22	721	16	0	65	52	680	18	0
66	21	721	14	0	65	51	688	8	0
66	20	722	18	6	65	50	696	4	0
66	19	724	17	0	65	49	703	13	0
66	18	727	8	6	65	48	710	11	0
66	17	730	13	6	65	47	716	16	0
66	16	734	6	6	65	46	722	7	0
66	15	738	4	0	65	45	726	17	0
66	14	741	19	6	65	44	730	14	0
66	13	745	7	6	65	43	733	19	0
66	12	748	5	6	65	42	736	13	6
66	11	750	13	0	65	41	739	1	0
66	10	752	11	6	65	40	740	17	6
66	9	754	1	0	65	39	742	9	6
66	8	755	3	0	65	38	743	18	6
66	7	755	13	0	65	37	745	7	0
66	6	755	8	6	65	36	746	13	6
66	5	754	2	6	65	35	747	17	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
65	34	748	18	0	64	63	602	1	0
65	33	749	13	6	64	62	614	16	6
65	32	750	5	0	64	61	626	7	6
65	31	750	12	6	64	60	636	11	6
65	30	750	18	6	64	59	645	12	6
65	29	751	3	0	64	58	654	1	0
65	28	751	5	6	64	57	662	0	0
65	27	751	5	6	64	56	669	15	0
65	26	751	2	6	64	55	677	11	0
65	25	750	4	6	64	54	685	7	0
65	24	749	6	0	64	53	693	4	6
65	23	748	10	0	64	52	701	5	0
65	22	747	18	6	64	51	709	4	0
65	21	747	16	0	64	50	717	9	6
65	20	749	1	6	64	49	725	8	0
65	19	751	1	0	64	48	732	15	6
65	18	753	14	6	64	47	739	8	6
65	17	757	2	6	64	46	745	8	0
65	16	760	18	6	64	45	750	5	0
65	15	765	0	0	64	44	754	8	0
65	14	768	18	6	64	43	757	19	0
65	13	772	10	6	64	42	760	19	0
65	12	775	12	0	64	41	763	11	0
65	11	778	2	6	64	40	765	12	0
65	10	780	4	0	64	39	767	7	6
65	9	781	16	6	64	38	769	0	0
65	8	783	0	0	64	37	770	12	0
65	7	783	12	0	64	36	772	1	0
65	6	783	9	0	64	35	773	8	0
65	5	782	3	6	64	34	774	10	6
65	4	779	13	0	64	33	775	8	0
65	3	775	14	6	64	32	776	1	0
65	2	770	5	0	64	31	776	10	0
65	1	763	4	0	64	30	776	17	0
65	0	756	1	6	64	29	777	2	0
					64	28	777	5	0
					64	27	777	5	6
64	64	588	14	6	64				

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
64	26	777	3	0	63	54	704	6	0
64	25	776	5	0	63	53	712	13	0
64	24	775	6	0	63	52	721	3	0
64	23	774	9	0	63	51	729	12	0
64	22	773	17	0	63	50	738	7	6
64	21	773	14	6	63	49	746	15	6
64	20	775	1	0	63	48	754	12	0
64	19	777	1	6	63	47	761	14	0
64	18	779	17	0	63	46	768	1	6
64	17	783	7	6	63	45	773	5	6
64	16	787	7	0	63	44	777	16	0
64	15	791	11	6	63	43	781	13	0
64	14	795	14	0	63	42	784	18	0
64	13	799	0	0	63	41	787	15	6
64	12	802	14	6	63	40	790	0	6
64	11	805	8	6	63	39	792	0	6
64	10	807	13	0	63	38	793	16	6
64	9	809	8	0	63	37	795	11	6
64	8	810	14	0	63	36	797	4	0
64	7	811	8	0	63	35	798	13	6
64	6	811	6	0	63	34	799	18	6
64	5	810	1	0	63	33	800	18	6
64	4	807	10	0	63	32	801	13	0
64	3	803	9	6	63	31	802	3	0
64	2	797	16	0	63	30	802	11	6
64	1	790	10	0	63	29	802	18	0
64	0	783	1	6	63	28	803	1	6
					63	27	803	2	6
63	63	616	0	6	63	26	803	0	0
63	62	629	9	6	63	25	802	1	6
63	61	641	12	6	63	24	801	2	6
63	60	652	9	0	63	23	800	5	0
63	59	662	1	0	63	22	799	12	6
63	58	671	0	6	63	21	799	10	0
63	57	679	9	6	63	20	800	17	0
63	56	687	14	0	63	19	802	19	0
63	55	696	0	0	63	18	805	16	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
63	17	809	9	6	62	44	800	16	0
63	16	813	12	0	62	43	804	19	6
63	15	818	0	6	62	42	808	10	6
63	14	822	6	6	62	41	811	13	0
63	13	826	6	0	62	40	814	3	0
63	12	829	14	6	62	39	816	7	0
63	11	832	12	0	62	38	818	7	0
63	10	834	19	0	62	37	820	5	6
63	9	836	17	0	62	36	822	1	0
63	8	838	5	6	62	35	823	13	6
63	7	839	1	6	62	34	825	1	6
63	6	839	0	6	62	33	826	3	6
63	5	837	16	0	62	32	827	0	0
63	4	835	4	0	62	31	827	12	0
63	3	831	2	0	62	30	828	1	6
63	2	825	5	0	62	29	828	9	0
63	1	817	13	6	62	28	828	13	6
63	0	809	19	6	62	27	828	15	0
					62	26	828	13	6
62	62	643	11	0	62	25	827	14	6
62	61	656	7	0	62	24	826	14	6
62	60	667	15	0	62	23	825	17	0
62	59	667	18	6	62	22	825	4	0
62	58	687	9	0	62	21	825	1	0
62	57	696	8	6	62	20	826	9	0
62	56	705	3	6	62	19	828	12	6
62	55	713	19	0	62	18	831	11	6
62	54	722	15	0	62	17	835	7	6
62	53	731	12	6	62	16	839	13	0
62	52	740	12	0	62	15	844	5	0
62	51	749	10	6	62	14	848	15	0
62	50	758	16	0	62	13	852	18	6
62	49	767	14	0	62	12	856	10	0
62	48	776	0	0	62	11	859	11	0
62	47	783	11	0	62	10	862	1	6
62	46	790	7	0	62	9	864	2	0
62	45	795	19	0	62	8	865	13	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
62	7	866	11	0	61	33	850	4	0
62	6	866	11	6	61	32	851	2	6
62	5	865	7	6	61	31	851	16	0
62	4	862	15	0	61	30	852	7	6
62	3	858	11	0	61	29	852	16	0
62	2	852	10	6	61	28	853	1	6
62	1	844	14	6	61	27	853	4	0
62	0	836	14	6	61	26	853	2	6
					61	25	852	3	6
61	61	669	15	6	61	24	851	3	6
61	60	681	15	6	61	23	850	5	6
61	59	692	10	0	61	22	849	12	0
61	58	702	11	0	61	21	849	9	0
61	57	712	1	0	61	20	850	17	6
61	56	721	6	0	61	19	853	2	6
61	55	730	12	0	61	18	856	3	6
61	54	739	17	6	61	17	860	1	6
61	53	749	5	0	61	16	864	10	6
61	52	758	14	6	61	15	869	6	0
61	51	768	3	0	61	14	873	19	6
61	50	777	18	0	61	13	878	6	6
61	49	787	5	6	61	12	882	2	0
61	48	796	1	0	61	11	885	6	0
61	47	804	1	0	61	10	887	19	6
61	46	811	5	6	61	9	890	3	0
61	45	817	5	6	61	8	891	16	6
61	44	822	10	0	61	7	892	16	6
61	43	827	0	0	61	6	892	18	6
61	42	830	17	0	61	5	891	15	0
61	41	834	5	0	61	4	889	2	0
61	40	836	19	6	61	3	884	16	0
61	39	839	8	0	61	2	878	12	6
61	38	841	12	0	61	1	870	11	6
61	37	843	14	0	61	0	862	6	6
61	36	845	13	0					
61	35	847	9	0	60	60	694	6	6
61	34	848	19	6	60	59	705	12	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
60	58	716	4	0	60	21	872	9	0
60	57	726	4	0	60	20	873	18	6
60	56	735	19	0	60	19	876	4	6
60	55	745	15	0	60	18	879	7	6
60	54	755	10	6	60	17	883	8	0
60	53	765	7	0	60	16	887	19	6
60	52	775	6	6	60	15	892	18	6
60	51	785	4	6	60	14	897	15	6
60	50	795	9	6	60	13	902	6	0
60	49	805	6	6	60	12	906	5	0
60	48	814	11	6	60	11	909	12	0
60	47	823	0	6	60	10	912	9	0
60	46	830	13	6	60	9	914	14	6
60	45	837	1	6	60	8	916	11	0
60	44	842	13	0	60	7	917	13	0
60	43	847	9	6	60	6	917	16	6
60	42	851	12	6	60	5	916	13	6
60	41	855	6	6	60	4	914	0	6
60	40	858	6	0	60	3	909	13	0
60	39	860	19	0	60	2	903	6	6
60	38	863	7	0	60	1	895	1	0
60	37	865	13	0	60	0	886	11	0
60	36	867	15	6					
60	35	869	15	0	59	59	717	8	6
60	34	871	8	0	59	58	728	10	6
60	33	872	15	0	59	57	739	0	6
60	32	873	16	0	59	56	749	5	6
60	31	874	11	6	59	55	759	11	0
60	30	875	4	6	59	54	769	16	0
60	29	875	14	6	59	53	780	2	6
60	28	876	1	0	59	52	790	11	6
60	27	876	4	0	59	51	800	18	6
60	26	876	3	6	59	50	811	13	6
60	25	875	4	6	59	49	822	0	0
60	24	874	4	0	59	48	831	14	0
60	23	873	5	6	59	47	840	12	0
60	22	872	12	0	59	46	848	13	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
59	45	855	9	0	59	8	939	18	6
59	44	861	8	0	59	7	941	2	6
59	43	866	11	6	59	6	941	8	0
59	42	871	0	6	59	5	940	6	0
59	41	875	0	0	59	4	937	12	6
59	40	878	4	6	59	3	933	3	6
59	39	881	2	6	59	2	926	14	6
59	38	883	14	6	59	1	918	5	0
59	37	886	5	0	59	0	909	10	0
59	36	888	11	0					
59	35	890	13	6	58	58	740	2	6
59	34	892	10	0	58	57	751	2	6
59	33	893	19	6	58	56	761	17	6
59	32	895	2	6	58	55	772	12	6
59	31	896	0	6	58	54	783	7	0
59	30	896	15	0	58	53	794	3	0
59	29	897	6	0	58	52	805	1	0
59	28	897	14	0	58	51	815	18	0
59	27	897	18	6	58	50	827	2	0
59	26	897	18	6	58	49	837	18	0
59	25	896	19	6	58	48	848	1	6
59	24	895	19	0	58	47	857	8	0
59	23	895	0	6	58	46	865	18	0
59	22	894	6	6	58	45	873	1	6
59	21	894	3	6	58	44	879	7	6
59	20	895	13	6	58	43	884	18	0
59	19	898	0	6	58	42	889	13	6
59	18	901	5	6	58	41	893	19	0
59	17	905	8	0	58	40	897	9	0
59	16	910	2	6	58	39	900	11	6
59	15	915	4	6	58	38	903	8	6
59	14	920	5	0	58	37	906	2	6
59	13	924	19	0	58	36	908	12	6
59	12	929	1	0	58	35	910	18	6
59	11	932	11	6	58	34	912	18	0
59	10	935	11	0	58	33	914	10	6
59	9	938	0	0	58	32	915	16	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
58	31	916	16	0	57	53	807	10	6
58	30	917	12	6	57	52	818	18	6
58	29	918	5	0	57	51	830	4	6
58	28	918	14	6	57	50	841	18	6
58	27	919	0	0	57	49	853	3	6
58	26	919	0	6	57	48	863	16	0
58	25	918	2	0	57	47	873	11	6
58	24	917	1	6	57	46	882	10	0
58	23	916	3	0	57	45	890	1	0
58	22	915	9	0	57	44	896	15	0
58	21	915	6	0	57	43	902	12	6
58	20	916	16	6	57	42	907	14	6
58	19	919	5	0	57	41	912	6	0
58	18	922	11	0	57	40	916	1	0
58	17	926	16	0	57	39	919	8	6
58	16	931	13	6	57	38	922	10	0
58	15	936	18	6	57	37	925	8	6
58	14	942	2	0	57	36	928	2	6
58	13	946	19	0	57	35	930	12	0
58	12	951	4	6	57	34	932	15	0
58	11	954	18	0	57	33	934	10	6
58	10	958	0	6	57	32	935	18	6
58	9	960	12	0	57	31	937	0	6
58	8	962	13	6	57	30	937	19	0
58	7	963	19	6	57	29	938	13	6
58	6	964	6	6	57	28	939	4	6
58	5	963	5	6	57	27	939	11	0
58	4	960	11	6	57	26	939	13	0
58	3	956	1	6	57	25	938	14	6
58	2	949	10	0	57	24	937	14	0
58	1	940	16	6	57	23	936	15	6
58	0	931	17	0	57	22	936	1	6
					57	21	935	18	6
57	57	762	12	6	57	20	937	10	0
57	56	773	17	0	57	19	939	19	6
57	55	785	1	6	57	18	943	7	6
57	54	796	5	6	57	17	947	14	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
57	16	952	14	6	56	38	941	7	6
57	15	958	2	6	56	37	944	10	6
57	14	963	9	6	56	36	947	8	6
57	13	968	9	6	56	35	950	2	0
57	12	972	18	0	56	34	952	8	0
57	11	976	14	6	56	33	954	6	6
57	10	980	0	0	56	32	955	17	6
57	9	982	14	0	56	31	957	2	0
57	8	984	18	0	56	30	958	2	6
57	7	986	6	6	56	29	958	19	0
57	6	986	15	0	56	28	959	11	6
57	5	985	14	6	56	27	959	19	6
57	4	983	1	0	56	26	960	2	0
57	3	978	10	0	56	25	959	4	6
57	2	971	15	6	56	24	958	4	6
57	1	962	18	6	56	23	957	5	6
57	0	953	14	6	56	22	956	11	6
					56	21	956	9	0
					56	20	958	1	0
56	56	785	10	6	56	19	960	11	6
56	55	797	5	0	56	18	964	1	6
56	54	808	18	0	56	17	968	10	6
56	53	820	13	0	56	16	973	13	0
56	52	832	10	0	56	15	979	4	0
56	51	844	5	6	56	14	984	14	0
56	50	856	9	0	56	13	989	17	6
56	49	868	3	6	56	12	994	9	6
56	48	879	5	0	56	11	998	9	0
56	47	889	9	6	56	10	1,001	17	6
56	46	898	16	6	56	9	1,004	14	0
56	45	906	15	6	56	8	1,007	0	0
56	44	913	17	0	56	7	1,008	11	0
56	43	920	1	6	56	6	1,009	1	0
56	42	925	10	0	56	5	1,008	1	6
56	41	930	7	6	56	4	1,005	8	0
56	40	934	8	6	56	3	1,000	16	0
56	39	938	1	0	56	2	993	19	6

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
56	1	984	18	6	55	21	977	4	6
56	0	975	10	6	55	20	978	17	6
55	55	809	8	6	55	19	981	9	6
55	54	821	11	6	55	18	985	0	6
55	53	833	15	6	55	17	989	12	6
55	52	846	2	6	55	16	994	17	6
55	51	858	7	6	55	15	1,000	11	6
55	50	871	0	6	55	14	1,006	4	6
55	49	883	4	6	55	13	1,011	11	6
55	48	894	15	6	55	12	1,016	6	0
55	47	905	9	0	55	11	1,020	8	6
55	46	915	4	6	55	10	1,024	0	0
55	45	923	12	0	55	9	1,026	19	6
55	44	931	1	0	55	8	1,029	8	0
55	43	937	12	6	55	7	1,031	1	0
55	42	943	8	0	55	6	1,031	13	0
55	41	948	11	6	55	5	1,030	14	6
55	40	952	18	6	55	4	1,028	1	0
55	39	956	16	6	55	3	1,023	7	6
55	38	960	8	0	55	2	1,016	9	0
55	37	963	15	6	55	1	1,007	4	6
55	36	966	18	0	55	0	997	12	0
55	35	969	15	0	54	54	834	4	0
55	34	972	5	0	54	53	846	17	6
55	33	974	7	0	54	52	859	14	0
55	32	976	0	6	54	51	872	9	0
55	31	977	7	6	54	50	885	11	6
55	30	978	10	0	54	49	898	5	6
55	29	979	8	6	54	48	910	5	6
55	28	980	3	0	54	47	921	8	6
55	27	980	12	0	54	46	931	12	6
55	26	980	16	0	54	45	940	8	0
55	25	979	19	0	54	44	948	5	0
55	24	978	19	6	54	43	955	4	0
55	23	978	0	6	54	42	961	6	0
55	22	977	7	0	54	41	966	16	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
54	40	971	9	0	54	3	1,046	3	6
54	39	975	13	0	54	2	1,039	2	6
54	38	979	9	6	54	1	1,029	14	0
54	37	983	2	0	54	0	1,019	17	6
54	36	986	9	0					
54	35	989	10	6	53	53	860	1	6
54	34	992	4	0	53	52	873	7	6
54	33	994	9	0	53	51	886	12	0
54	32	996	6	0	53	50	900	4	6
54	31	997	15	6	53	49	913	8	0
54	30	999	0	6	53	48	925	18	0
54	29	1,000	1	0	53	47	937	10	0
54	28	1,000	17	0	53	46	948	3	0
54	27	1,001	8	0	53	45	957	7	0
54	26	1,001	13	6	53	44	965	12	0
54	25	1,000	17	0	53	43	972	18	6
54	24	999	17	0	53	42	979	7	6
54	23	998	19	0	53	41	985	4	6
54	22	998	5	6	53	40	990	3	6
54	21	998	3	6	53	39	994	13	0
54	20	999	17	6	53	38	998	15	0
54	19	1,002	11	0	53	37	1,002	12	6
54	18	1,006	4	0	53	36	1,006	4	0
54	17	1,010	18	0	53	35	1,009	10	0
54	16	1,016	5	6	53	34	1,012	7	6
54	15	1,022	2	6	53	33	1,014	16	6
54	14	1,027	19	0	53	32	1,016	16	0
54	13	1,033	9	0	53	31	1,018	8	6
54	12	1,038	7	0	53	30	1,019	16	6
54	11	1,042	12	6	53	29	1,020	19	0
54	10	1,046	6	6	53	28	1,021	17	0
54	9	1,049	8	6	53	27	1,022	9	6
54	8	1,052	0	0	53	26	1,022	16	6
54	7	1,053	15	0	53	25	1,022	0	6
54	6	1,054	8	6	53	24	1,021	2	0
54	5	1,053	11	0	53	23	1,020	4	0
54	4	1,050	17	6	53	22	1,019	10	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
53	21	1,019	8	6	52	38	1,018	5	6
53	20	1,021	4	0	52	37	1,022	8	6
53	19	1,023	18	6	52	36	1,026	5	0
53	18	1,027	13	6	52	35	1,029	15	0
53	17	1,032	10	0	52	34	1,032	17	0
53	16	1,038	0	6	52	33	1,035	9	6
53	15	1,044	0	6	52	32	1,037	13	0
53	14	1,050	0	6	52	31	1,039	8	0
53	13	1,055	13	6	52	30	1,040	19	0
53	12	1,060	14	6	52	29	1,042	4	0
53	11	1,065	3	6	52	28	1,043	4	0
53	10	1,069	0	0	52	27	1,043	18	6
53	9	1,072	5	0	52	26	1,044	6	6
53	8	1,074	19	0	52	25	1,043	12	0
53	7	1,076	16	0	52	24	1,042	13	6
53	6	1,077	11	6	52	23	1,041	16	0
53	5	1,076	15	0	52	22	1,041	3	0
53	4	1,074	1	6	52	21	1,041	2	0
53	3	1,069	6	6	52	20	1,042	18	0
53	2	1,062	3	0	52	19	1,045	14	6
53	1	1,052	11	0	52	18	1,049	11	6
53	0	1,042	10	0	52	17	1,054	10	0
					52	16	1,060	3	6
52	52	887	3	6	52	15	1,066	7	0
52	51	900	17	6	52	14	1,072	10	0
52	50	915	0	6	52	13	1,078	6	6
52	49	928	14	0	52	12	1,083	11	0
52	48	941	13	6	52	11	1,088	2	6
52	47	953	15	0	52	10	1,092	2	6
52	46	964	17	6	52	9	1,095	10	0
52	45	974	10	0	52	8	1,098	6	0
52	44	983	3	0	52	7	1,100	5	6
52	43	990	17	0	52	6	1,101	3	0
52	42	997	13	6	52	5	1,100	7	6
52	41	1,003	17	6	52	4	1,097	14	0
52	40	1,009	2	6	52	3	1,092	18	0
52	39	1,013	18	0	52	2	1,085	12	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
52	1	1,075	16	6	51	17	1,076	13	6
52	0	1,065	11	0	51	16	1,082	10	0
					51	15	1,088	16	6
51	51	915	2	0	51	14	1,095	3	0
51	50	929	15	0	51	13	1,101	3	0
51	49	943	18	6	51	12	1,106	10	6
51	48	957	8	6	51	11	1,111	5	6
51	47	969	19	6	51	10	1,115	8	0
51	46	981	11	0	51	9	1,118	18	6
51	45	991	12	6	51	8	1,121	17	6
51	44	1,000	13	6	51	7	1,123	19	0
51	43	1,008	15	6	51	6	1,124	18	0
51	42	1,015	19	6	51	5	1,124	3	6
51	41	1,022	10	6	51	4	1,121	10	6
51	40	1,028	2	0	51	3	1,116	13	0
51	39	1,033	3	6	51	2	1,109	5	0
51	38	1,037	16	6	51	1	1,099	5	6
51	37	1,042	5	0	51	0	1,088	16	0
51	36	1,046	6	6					
51	35	1,050	1	6	50	50	944	18	0
51	34	1,053	8	0	50	49	959	12	0
51	33	1,056	4	6	50	48	973	12	0
51	32	1,058	11	0	50	47	986	13	0
51	31	1,060	9	6	50	46	998	14	6
51	30	1,062	3	0	50	45	1,009	4	6
51	29	1,063	11	0	50	44	1,018	14	6
51	28	1,064	13	0	50	43	1,027	4	6
51	27	1,065	9	6	50	42	1,034	16	0
51	26	1,065	19	0	50	41	1,041	14	0
51	25	1,065	5	6	50	40	1,047	12	0
51	24	1,064	8	0	50	39	1,053	0	0
51	23	1,063	11	0	50	38	1,057	19	0
51	22	1,062	18	6	50	37	1,062	13	0
51	21	1,062	17	6	50	36	1,067	0	0
51	20	1,064	15	6	50	35	1,071	0	6
51	19	1,067	13	0	50	34	1,074	11	0
51	18	1,071	12	6	50	33	1,077	12	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
50	32	1,080	2	6	49	46	1,015	8	6
50	31	1,082	4	6	49	45	1,026	8	0
50	30	1,084	0	6	49	44	1,036	6	6
50	29	1,085	11	0	49	43	1,045	4	6
50	28	1,086	16	0	49	42	1,053	4	0
50	27	1,087	14	0	49	41	1,060	9	6
50	26	1,088	6	0	49	40	1,066	14	6
50	25	1,087	13	0	49	39	1,072	8	6
50	24	1,086	16	6	49	38	1,077	14	0
50	23	1,086	0	0	49	37	1,082	13	6
50	22	1,085	8	0	49	36	1,087	6	0
50	21	1,085	8	0	49	35	1,091	11	6
50	20	1,087	7	0	49	34	1,095	7	0
50	19	1,090	6	6	49	33	1,098	12	0
50	18	1,094	8	0	49	32	1,101	6	6
50	17	1,099	12	0	49	31	1,103	12	0
50	16	1,105	11	6	49	30	1,105	11	6
50	15	1,112	1	6	49	29	1,107	5	0
50	14	1,118	11	6	49	28	1,108	12	0
50	13	1,124	15	0	49	27	1,109	12	6
50	12	1,130	6	0	49	26	1,110	6	0
50	11	1,135	4	0	49	25	1,109	14	6
50	10	1,139	10	0	49	24	1,108	19	0
50	9	1,143	3	0	49	23	1,108	3	6
50	8	1,146	4	6	49	22	1,107	12	0
50	7	1,148	8	6	49	21	1,107	12	6
50	6	1,149	9	0	49	20	1,109	13	0
50	5	1,148	15	6	49	19	1,112	14	6
50	4	1,146	2	6	49	18	1,116	18	0
50	3	1,141	4	0	49	17	1,122	4	6
50	2	1,133	14	0	49	16	1,128	7	6
50	1	1,123	10	6	49	15	1,135	1	0
50	0	1,112	16	6	49	14	1,141	14	6
					49	13	1,148	1	6
49	49	974	16	6	49	12	1,153	16	0
49	48	989	6	6	49	11	1,158	17	0
49	47	1,002	17	6	49	10	1,163	6	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
49	9	1,167	2	0	48	22	1,129	4	0
49	8	1,170	6	0	48	21	1,129	5	0
49	7	1,172	12	6	48	20	1,131	7	0
49	6	1,173	15	0	48	19	1,134	10	6
49	5	1,173	2	6	48	18	1,138	16	0
49	4	1,170	9	6	48	17	1,144	5	6
49	3	1,165	10	0	48	16	1,150	11	6
49	2	1,157	17	6	48	15	1,157	8	6
49	1	1,147	10	6	48	14	1,164	6	0
49	0	1,136	12	0	48	13	1,170	16	6
					48	12	1,176	14	6
48	48	1,004	7	0	48	11	1,181	19	0
48	47	1,018	7	6	48	10	1,186	10	6
48	46	1,031	8	6	48	9	1,190	9	6
48	45	1,042	16	6	48	8	1,193	16	6
48	44	1,053	4	0	48	7	1,196	5	0
48	43	1,062	10	6	48	6	1,197	9	6
48	42	1,070	17	6	48	5	1,196	18	0
48	41	1,078	10	0	48	4	1,194	5	0
48	40	1,085	2	0	48	3	1,189	4	6
48	39	1,091	3	0	48	2	1,181	9	6
48	38	1,096	14	6	48	1	1,170	19	0
48	37	1,102	0	0	48	0	1,159	16	0
48	36	1,106	18	0					
48	35	1,111	8	6	47	47	1,032	18	6
48	34	1,115	9	0	47	46	1,046	8	6
48	33	1,118	18	6	47	45	1,058	6	0
48	32	1,121	17	0	47	44	1,069	1	6
48	31	1,124	6	6	47	43	1,078	16	6
48	30	1,126	9	6	47	42	1,087	11	0
48	29	1,128	5	6	47	41	1,095	11	6
48	28	1,129	15	6	47	40	1,102	10	6
48	27	1,130	18	6	47	39	1,108	17	6
48	26	1,131	14	0	47	38	1,114	15	6
48	25	1,131	3	6	47	37	1,120	7	0
48	24	1,130	9	0	47	36	1,125	10	6
48	23	1,129	14	6	47	35	1,130	6	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
47	34	1,134	12	0	46	45	1,072	14	0
47	33	1,138	6	0	46	44	1,083	18	6
47	32	1,141	9	0	46	43	1,094	1	0
47	31	1,144	2	0	46	42	1,103	4	0
47	30	1,146	8	0	46	41	1,111	11	6
47	29	1,148	7	6	46	40	1,118	17	6
47	28	1,150	0	6	46	39	1,125	11	0
47	27	1,151	5	6	46	38	1,131	15	0
47	26	1,152	3	6	46	37	1,137	13	0
47	25	1,151	14	6	46	36	1,143	2	0
47	24	1,151	1	0	46	35	1,148	3	6
47	23	1,150	7	6	46	34	1,152	14	0
47	22	1,149	18	0	46	33	1,156	12	6
47	21	1,150	0	0	46	32	1,159	19	6
47	20	1,152	3	6	46	31	1,162	16	6
47	19	1,155	8	6	46	30	1,165	6	6
47	18	1,159	16	6	46	29	1,167	9	6
47	17	1,165	9	0	46	28	1,169	5	0
47	16	1,171	18	0	46	27	1,170	13	0
47	15	1,178	18	6	46	26	1,171	13	0
47	14	1,185	19	6	46	25	1,171	5	6
47	13	1,192	13	6	46	24	1,170	13	6
47	12	1,198	14	6	46	23	1,170	1	0
47	11	1,204	2	6	46	22	1,169	12	6
47	10	1,208	17	6	46	21	1,169	15	6
47	9	1,212	19	0	46	20	1,172	0	6
47	8	1,216	8	6	46	19	1,175	7	6
47	7	1,218	19	6	46	18	1,179	18	0
47	6	1,220	5	6	46	17	1,185	13	0
47	5	1,219	15	0	46	16	1,192	5	0
47	4	1,217	2	6	46	15	1,199	9	0
47	3	1,212	1	6	46	14	1,206	13	0
47	2	1,204	4	0	46	13	1,213	11	0
47	1	1,193	10	0	46	12	1,219	15	6
47	0	1,182	3	0	46	11	1,225	6	6
					46	10	1,230	4	6
46	46	1,060	7	6	46	9	1,234	9	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
46	8	1,238	0	6	45	18	1,198	6	0
46	7	1,240	14	0	45	17	1,204	3	6
46	6	1,242	2	0	45	16	1,210	18	6
46	5	1,241	12	6	45	15	1,218	5	6
46	4	1,239	0	6	45	14	1,225	13	0
46	3	1,233	18	6	45	13	1,232	14	0
46	2	1,225	19	0	45	12	1,239	2	0
46	1	1,215	1	6	45	11	1,244	16	0
46	0	1,203	11	0	45	10	1,249	17	0
					45	9	1,254	4	0
45	45	1,085	9	0	45	8	1,257	18	6
45	44	1,097	1	6	45	7	1,260	14	0
45	43	1,107	12	6	45	6	1,262	4	0
45	42	1,117	2	6	45	5	1,261	15	6
45	41	1,125	17	6	45	4	1,259	3	6
45	40	1,133	10	0	45	3	1,254	1	0
45	39	1,140	10	6	45	2	1,246	0	6
45	38	1,147	0	6	45	1	1,235	0	0
45	37	1,153	4	6	45	0	1,223	5	6
45	36	1,158	19	0					
45	35	1,164	6	0	44	44	1,109	2	0
45	34	1,169	1	6	44	43	1,120	0	6
45	33	1,173	5	0	44	42	1,129	18	6
45	32	1,176	16	0	44	41	1,139	0	6
45	31	1,179	17	0	44	40	1,147	0	0
45	30	1,182	10	6	44	39	1,154	7	0
45	29	1,184	17	0	44	38	1,161	3	0
45	28	1,186	15	6	44	37	1,167	12	6
45	27	1,188	6	0	44	36	1,173	13	0
45	26	1,189	8	6	44	35	1,179	5	0
45	25	1,189	3	0	44	34	1,184	6	0
45	24	1,188	12	0	44	33	1,188	14	0
45	23	1,188	1	0	44	32	1,192	9	6
45	22	1,187	13	6	44	31	1,195	14	6
45	21	1,187	17	6	44	30	1,198	12	0
45	20	1,190	4	6	44	29	1,201	1	6
45	19	1,193	13	0	44	28	1,203	3	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
44	27	1,204	16	6	43	35	1,193	1	6
44	26	1,206	1	0	43	34	1,198	7	0
44	25	1,205	18	0	43	33	1,203	0	0
44	24	1,205	8	6	43	32	1,207	0	0
44	23	1,204	18	6	43	31	1,210	9	0
44	22	1,204	12	0	43	30	1,213	10	0
44	21	1,204	18	0	43	29	1,216	3	0
44	20	1,207	6	0	43	28	1,218	8	0
44	19	1,210	17	0	43	27	1,220	4	6
44	18	1,215	11	6	43	26	1,221	11	6
44	17	1,221	12	0	43	25	1,221	10	0
44	16	1,228	10	0	43	24	1,221	2	6
44	15	1,236	0	0	43	23	1,220	14	0
44	14	1,243	11	0	43	22	1,220	9	0
44	13	1,250	15	0	43	21	1,220	16	0
44	12	1,257	6	0	43	20	1,223	6	0
44	11	1,263	3	0	43	19	1,226	18	6
44	10	1,268	6	6	43	18	1,231	15	6
44	9	1,272	16	6	43	17	1,237	18	6
44	8	1,276	13	6	43	16	1,244	19	6
44	7	1,279	11	0	43	15	1,252	12	6
44	6	1,281	3	0	43	14	1,260	6	6
44	5	1,280	16	0	43	13	1,267	13	6
44	4	1,278	4	6	43	12	1,274	7	6
44	3	1,273	1	6	43	11	1,280	7	6
44	2	1,264	19	0	43	10	1,285	14	0
44	1	1,253	15	6	43	9	1,290	6	6
44	0	1,241	18	0	43	8	1,294	6	0
					43	7	1,297	5	6
43	43	1,131	7	0	43	6	1,298	19	0
43	42	1,141	12	0	43	5	1,298	13	6
43	41	1,151	1	0	43	4	1,296	2	6
43	40	1,159	7	0	43	3	1,290	19	0
43	39	1,167	0	6	43	2	1,282	15	0
43	38	1,174	3	0	43	1	1,271	9	6
43	37	1,180	18	0	43	0	1,259	9	0
43	36	1,187	4	0					

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
42	42	1,152	4	0	42	5	1,315	9	0
42	41	1,162	0	0	42	4	1,312	18	6
42	40	1,170	12	6	42	3	1,307	15	0
42	39	1,178	12	0	42	2	1,299	10	0
42	38	1,186	0	6	42	1	1,288	2	0
42	37	1,193	1	6	42	0	1,275	18	6
42	36	1,199	13	6					
42	35	1,205	16	0	41	41	1,172	2	6
42	34	1,211	6	6	41	40	1,181	1	6
42	33	1,216	4	0	41	39	1,189	7	6
42	32	1,220	8	6	41	38	1,197	2	0
42	31	1,224	1	6	41	37	1,204	8	6
42	30	1,227	6	6	41	36	1,211	6	0
42	29	1,230	3	0	41	35	1,217	13	6
42	28	1,232	11	0	41	34	1,223	9	6
42	27	1,234	10	6	41	33	1,228	11	6
42	26	1,236	0	6	41	32	1,233	0	6
42	25	1,236	1	0	41	31	1,236	17	6
42	24	1,235	15	6	41	30	1,240	6	0
42	23	1,235	8	6	41	29	1,243	6	6
42	22	1,235	5	0	41	28	1,245	17	6
42	21	1,235	13	0	41	27	1,248	0	0
42	20	1,238	4	6	41	26	1,249	12	6
42	19	1,241	19	6	41	25	1,249	15	6
42	18	1,246	18	6	41	24	1,249	12	0
42	17	1,253	4	0	41	23	1,249	6	6
42	16	1,260	7	6	41	22	1,249	4	6
42	15	1,268	3	0	41	21	1,249	14	0
42	14	1,276	0	6	41	20	1,252	7	6
42	13	1,283	10	6	41	19	1,256	4	6
42	12	1,290	7	6	41	18	1,261	6	0
42	11	1,296	10	0	41	17	1,267	13	6
42	10	1,301	19	0	41	16	1,274	19	6
42	9	1,306	14	6	41	15	1,282	18	6
42	8	1,310	16	0	41	14	1,290	18	6
42	7	1,313	18	0	41	13	1,298	11	6
42	6	1,315	13	6	41	12	1,305	11	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
41	11	1,311	16	6	40	16	1,288	8	0
41	10	1,317	8	6	40	15	1,296	9	6
41	9	1,322	6	0	40	14	1,304	12	0
41	8	1,326	10	0	40	13	1,312	8	0
41	7	1,329	14	6	40	12	1,319	10	6
41	6	1,331	11	6	40	11	1,325	18	6
41	5	1,331	8	0	40	10	1,331	12	6
41	4	1,328	18	6	40	9	1,336	12	6
41	3	1,323	14	6	40	8	1,340	19	0
41	2	1,315	8	6	40	7	1,344	5	6
41	1	1,303	18	6	40	6	1,346	4	0
41	0	1,291	12	6	40	5	1,346	2	0
					40	4	1,343	13	0
40	40	1,190	7	0	40	3	1,338	9	0
40	39	1,198	18	6	40	2	1,330	2	0
40	38	1,206	19	0	40	1	1,318	10	6
40	37	1,214	11	6	40	0	1,306	2	0
40	36	1,221	14	0					
40	35	1,228	7	0	39	39	1,207	16	0
40	34	1,234	7	6	39	38	1,216	2	0
40	33	1,239	14	6	39	37	1,224	0	0
40	32	1,244	7	6	39	36	1,231	8	0
40	31	1,248	8	6	39	35	1,238	6	0
40	30	1,252	1	0	39	34	1,244	11	6
40	29	1,255	5	0	39	33	1,250	3	0
40	28	1,257	19	6	39	32	1,255	0	6
40	27	1,260	5	0	39	31	1,259	5	6
40	26	1,262	0	6	39	30	1,263	2	0
40	25	1,262	5	6	39	29	1,266	9	6
40	24	1,262	4	0	39	28	1,269	7	6
40	23	1,262	0	6	39	27	1,271	16	0
40	22	1,262	0	0	39	26	1,273	14	0
40	21	1,262	11	6	39	25	1,274	1	6
40	20	1,265	6	6	39	24	1,274	2	0
40	19	1,269	5	6	39	23	1,274	0	6
40	18	1,274	9	0	39	22	1,274	2	0
40	17	1,280	19	0	39	21	1,274	15	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
39	20	1,277	12	0	38	23	1,285	8	6
39	19	1,281	12	6	38	22	1,285	12	0
39	18	1,286	18	6	38	21	1,286	6	6
39	17	1,293	11	0	38	20	1,289	6	0
39	16	1,301	2	6	38	19	1,293	8	6
39	15	1,309	6	6	38	18	1,298	16	6
39	14	1,317	12	0	38	17	1,305	11	6
39	13	1,325	10	6	38	16	1,313	5	6
39	12	1,332	15	6	38	15	1,321	12	6
39	11	1,339	6	0	38	14	1,330	0	6
39	10	1,345	3	0	38	13	1,338	2	0
39	9	1,350	5	6	38	12	1,345	9	6
39	8	1,354	14	0	38	11	1,352	2	6
39	7	1,358	2	0	38	10	1,358	1	6
39	6	1,360	2	6	38	9	1,363	6	0
39	5	1,360	2	0	38	8	1,367	17	0
39	4	1,357	13	6	38	7	1,371	7	0
39	3	1,352	10	0	38	6	1,373	9	6
39	2	1,344	2	0	38	5	1,373	10	0
39	1	1,332	8	6	38	4	1,371	2	6
39	0	1,319	18	0	38	3	1,365	18	6
					38	2	1,357	10	0
38	38	1,224	13	6	38	1	1,345	15	0
38	37	1,232	17	0	38	0	1,333	2	6
38	36	1,240	10	0					
38	35	1,247	13	6	37	37	1,241	5	6
38	34	1,254	3	6	37	36	1,249	4	0
38	33	1,259	19	6	37	35	1,256	12	0
38	32	1,265	1	6	37	34	1,263	7	0
38	31	1,269	10	6	37	33	1,269	7	6
38	30	1,273	11	0	37	32	1,274	13	6
38	29	1,277	1	6	37	31	1,279	7	0
38	28	1,280	3	0	37	30	1,283	11	0
38	27	1,282	14	6	37	29	1,287	5	6
38	26	1,284	16	0	37	28	1,290	10	6
38	25	1,285	6	0	37	27	1,293	5	0
38	24	1,285	8	6	37	26	1,295	9	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
37	25	1,296	1	6	36	26	1,305	12	0
37	24	1,296	6	6	36	25	1,306	7	0
37	23	1,296	9	0	36	24	1,306	14	0
37	22	1,296	14	0	36	23	1,306	18	6
37	21	1,297	10	6	36	22	1,307	5	6
37	20	1,300	11	6	36	21	1,308	4	0
37	19	1,304	16	6	36	20	1,311	7	0
37	18	1,310	7	0	36	19	1,315	14	6
37	17	1,317	4	0	36	18	1,321	7	0
37	16	1,325	0	6	36	17	1,528	6	6
37	15	1,333	10	0	36	16	1,336	5	6
37	14	1,342	1	0	36	15	1,344	18	0
37	13	1,350	5	0	36	14	1,353	11	6
37	12	1,357	15	0	36	13	1,361	18	0
37	11	1,364	10	6	36	12	1,369	10	6
37	10	1,370	12	0	36	11	1,376	8	6
37	9	1,375	19	0	36	10	1,382	12	0
37	8	1,380	12	0	36	9	1,388	1	0
37	7	1,384	4	0	36	8	1,392	16	6
37	6	1,386	8	0	36	7	1,396	10	6
37	5	1,386	10	0	36	6	1,398	16	0
37	4	1,384	3	0	36	5	1,398	19	0
37	3	1,378	19	6	36	4	1,396	13	0
37	2	1,370	10	0	36	3	1,391	9	6
37	1	1,358	13	6	36	2	1,383	0	0
37	0	1,345	19	6	36	1	1,371	2	0
					36	0	1,358	6	0
36	36	1,257	7	6					
36	35	1,265	0	6	35	35	1,272	18	0
36	34	1,272	0	0	35	34	1,280	2	6
36	33	1,278	5	0	35	33	1,286	12	0
36	32	1,283	15	6	35	32	1,292	6	6
36	31	1,288	13	0	35	31	1,297	8	0
36	30	1,293	1	0	35	30	1,302	0	0
36	29	1,296	19	0	35	29	1,306	1	6
36	28	1,300	7	0	35	28	1,309	13	0
36	27	1,303	5	0	35	27	1,312	14	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
35	26	1,315	4	0	34	25	1,325	2	0
35	25	1,316	1	6	34	24	1,325	14	0
35	24	1,316	11	0	34	23	1,326	2	6
35	23	1,316	17	6	34	22	1,326	13	6
35	22	1,317	6	6	34	21	1,327	16	0
35	21	1,318	7	0	34	20	1,331	3	6
35	20	1,321	12	6	34	19	1,335	15	0
35	19	1,326	1	6	34	18	1,341	12	6
35	18	1,331	16	6	34	17	1,348	17	0
35	17	1,338	18	6	34	16	1,357	1	0
35	16	1,347	0	6	34	15	1,365	18	6
35	15	1,355	15	0	34	14	1,374	17	6
35	14	1,364	11	6	34	13	1,383	9	0
35	13	1,373	0	6	34	12	1,391	6	6
35	12	1,380	15	6	34	11	1,398	9	0
35	11	1,387	16	0	34	10	1,404	17	6
35	10	1,394	2	0	34	9	1,410	10	6
35	9	1,399	13	0	34	8	1,415	10	0
35	8	1,404	10	0	34	7	1,419	7	6
35	7	1,408	6	0	34	6	1,421	16	0
35	6	1,410	13	0	34	5	1,422	2	0
35	5	1,410	17	6	34	4	1,419	17	0
35	4	1,408	12	0	34	3	1,414	14	0
35	3	1,403	9	0	34	2	1,406	3	6
35	2	1,394	19	0	34	1	1,394	3	6
35	1	1,382	19	6	34	0	1,381	4	6
35	0	1,370	2	0					
					33	33	1,301	3	0
34	34	1,287	11	6	33	32	1,307	6	0
34	33	1,294	5	0	33	31	1,312	15	0
34	32	1,300	4	0	33	30	1,317	14	6
34	31	1,305	9	6	33	29	1,322	3	0
34	30	1,310	5	0	33	28	1,326	1	6
34	29	1,314	10	0	33	27	1,329	8	6
34	28	1,318	5	0	33	26	1,332	4	6
34	27	1,321	9	0	33	25	1,333	7	0
34	26	1,324	2	0	33	24	1,334	1	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
33	23	1,334	12	6	32	20	1,348	0	0
33	22	1,335	5	6	32	19	1,352	15	6
33	21	1,336	9	6	32	18	1,358	17	6
33	20	1,339	19	6	32	17	1,366	7	0
33	19	1,344	13	0	32	16	1,374	16	0
33	18	1,350	12	6	32	15	1,383	18	6
33	17	1,358	0	0	32	14	1,393	2	6
33	16	1,366	6	6	32	13	1,401	19	0
33	15	1,375	6	6	32	12	1,410	1	6
33	14	1,384	8	0	32	11	1,417	8	6
33	13	1,393	2	0	32	10	1,424	1	0
33	12	1,401	2	0	32	9	1,429	18	0
33	11	1,408	7	0	32	8	1,435	1	0
33	10	1,414	17	0	32	7	1,439	2	0
33	9	1,420	12	6	32	6	1,441	14	0
33	8	1,425	13	6	32	5	1,442	2	0
33	7	1,429	13	0	32	4	1,439	19	0
33	6	1,432	3	0	32	3	1,434	16	6
33	5	1,432	10	0	32	2	1,426	5	6
33	4	1,430	6	0	32	1	1,414	3	6
33	3	1,425	3	6	32	0	1,401	2	0
33	2	1,416	12	6					
33	1	1,404	11	6	31	31	1,325	2	0
33	0	1,391	11	0	31	30	1,330	8	6
					31	29	1,335	4	0
32	32	1,313	12	6	31	28	1,339	9	0
32	31	1,319	5	6	31	27	1,343	2	6
32	30	1,324	8	6	31	26	1,346	4	0
32	29	1,329	0	6	31	25	1,347	12	0
32	28	1,333	2	0	31	24	1,348	10	6
32	27	1,336	12	6	31	23	1,349	6	0
32	26	1,339	11	6	31	22	1,350	3	6
32	25	1,340	16	6	31	21	1,351	12	0
32	24	1,341	13	0	31	20	1,355	6	0
32	23	1,342	6	6	31	19	1,360	4	0
32	22	1,343	1	6	31	18	1,366	8	0
32	21	1,344	8	0	31	17	1,374	0	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
31	16	1,382	11	6	30	11	1,433	11	6
31	15	1,391	16	6	30	10	1,440	8	0
31	14	1,401	2	6	30	9	1,446	9	6
31	13	1,410	2	0	30	8	1,451	16	0
31	12	1,418	6	6	30	7	1,456	0	6
31	11	1,425	15	6	30	6	1,458	15	0
31	10	1,432	10	0	30	5	1,459	5	6
31	9	1,438	9	0	30	4	1,457	4	0
31	8	1,443	14	0	30	3	1,452	2	0
31	7	1,447	16	6	30	2	1,443	11	0
31	6	1,450	10	0	30	1	1,431	7	6
31	5	1,450	19	0	30	0	1,418	4	6
31	4	1,448	17	0					
31	3	1,443	15	0	29	29	1,345	19	6
31	2	1,435	3	6	29	28	1,350	10	6
31	1	1,423	1	0	29	27	1,354	9	6
31	0	1,409	18	6	29	26	1,357	17	0
					29	25	1,359	10	0
30	30	1,335	18	6	29	24	1,360	13	6
30	29	1,340	17	0	29	23	1,361	13	6
30	28	1,345	5	0	29	22	1,362	15	0
30	27	1,349	1	6	29	21	1,364	7	6
30	26	1,352	6	0	29	20	1,368	6	0
30	25	1,353	16	6	29	19	1,373	8	6
30	24	1,354	17	6	29	18	1,379	17	0
30	23	1,355	15	6	29	17	1,387	13	6
30	22	1,356	15	0	29	16	1,396	9	6
30	21	1,358	5	6	29	15	1,405	19	6
30	20	1,362	1	6	29	14	1,415	10	0
30	19	1,367	2	0	29	13	1,424	14	0
30	18	1,373	8	0	29	12	1,433	3	0
30	17	1,381	2	6	29	11	1,440	16	0
30	16	1,389	16	0	29	10	1,447	14	6
30	15	1,399	3	6	29	9	1,453	17	6
30	14	1,408	12	0	29	8	1,459	6	0
30	13	1,417	13	6	29	7	1,463	12	0
30	12	1,426	0	6	29	6	1,466	8	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
29	5	1,466	19	6	27	27	1,363	11	6
29	4	1,464	19	0	27	26	1,367	4	6
29	3	1,459	18	0	27	25	1,369	2	0
29	2	1,451	6	6	27	24	1,370	10	6
29	1	1,439	3	0	27	23	1,371	15	0
29	0	1,425	18	6	27	22	1,373	1	0
					27	21	1,374	17	6
28	28	1,355	4	6	27	20	1,379	0	0
28	27	1,359	6	6	27	19	1,384	6	6
28	26	1,362	16	6	27	18	1,390	19	6
28	25	1,364	12	0	27	17	1,399	0	0
28	24	1,365	18	0	27	16	1,408	1	0
28	23	1,367	0	6	27	15	1,417	15	0
28	22	1,368	4	0	27	14	1,427	10	6
28	21	1,369	18	6	27	13	1,436	18	6
28	20	1,373	19	0	27	12	1,445	12	0
28	19	1,379	3	6	27	11	1,453	9	0
28	18	1,385	14	0	27	10	1,460	11	6
28	17	1,393	13	0	27	9	1,466	18	0
28	16	1,402	11	6	27	8	1,472	9	6
28	15	1,412	3	6	27	7	1,476	19	0
28	14	1,421	16	6	27	6	1,479	18	0
28	13	1,431	2	6	27	5	1,480	11	6
28	12	1,439	13	6	27	4	1,478	13	0
28	11	1,447	9	0	27	3	1,473	12	6
28	10	1,454	9	6	27	2	1,465	1	6
28	9	1,460	14	0	27	1	1,452	16	6
28	8	1,466	4	0	27	0	1,439	11	6
28	7	1,470	12	0					
28	6	1,473	9	6	26	26	1,370	19	6
28	5	1,474	2	0	26	25	1,373	0	0
28	4	1,472	2	6	26	24	1,374	10	6
28	3	1,467	1	6	26	23	1,375	17	0
28	2	1,458	10	0	26	22	1,377	5	0
28	1	1,446	6	0	26	21	1,379	3	6
28	0	1,433	1	0	26	20	1,383	8	0
					26	19	1,388	17	0

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
26	18	1,395	11	6	25	8	1,481	16	0
26	17	1,403	14	6	25	7	1,486	8	0
26	16	1,412	17	6	25	6	1,489	9	6
26	15	1,422	14	0	25	5	1,490	6	0
26	14	1,432	11	6	25	4	1,488	8	6
26	13	1,442	1	6	25	3	1,483	9	6
26	12	1,450	16	6	25	2	1,474	19	0
26	11	1,458	16	0	25	1	1,462	14	0
26	10	1,466	0	0	25	0	1,449	8	6
26	9	1,472	8	6					
26	8	1,478	2	0					
26	7	1,482	12	6	24	24	1,378	10	6
26	6	1,485	13	0	24	23	1,380	1	0
26	5	1,486	8	0	24	22	1,381	13	0
26	4	1,484	9	6	24	21	1,383	15	6
26	3	1,479	10	0	24	20	1,388	4	0
26	2	1,470	19	0	24	19	1,393	16	6
26	1	1,458	14	0	24	18	1,400	15	0
26	0	1,445	8	6	24	17	1,409	1	6
					24	16	1,418	8	0
25	25	1,375	2	6	24	15	1,428	8	6
25	24	1,376	15	6	24	14	1,438	9	6
25	23	1,378	4	0	24	13	1,448	3	0
25	22	1,379	14	0	24	12	1,457	1	6
25	21	1,381	14	6	24	11	1,465	4	6
25	20	1,386	1	0	24	10	1,472	11	6
25	19	1,391	11	6	24	9	1,479	3	0
25	18	1,398	8	6	24	8	1,484	19	6
25	17	1,406	13	6	24	7	1,489	13	0
25	16	1,415	18	0	24	6	1,492	15	6
25	15	1,425	16	6	24	5	1,493	13	0
25	14	1,435	15	6	24	4	1,491	16	6
25	13	1,445	7	6	24	3	1,486	18	6
25	12	1,454	4	6	24	2	1,478	8	0
25	11	1,462	5	6	24	1	1,466	3	6
25	10	1,469	11	6	24	0	1,452	18	0
25	9	1,476	1	0					

TABLE II.—continued.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
23	23	1,381	14	0	22	10	1,478	3	6
23	22	1,383	7	6	22	9	1,484	17	6
23	21	1,385	12	0	22	8	1,490	16	6
23	20	1,390	2	6	22	7	1,495	13	0
23	19	1,395	17	0	22	6	1,498	18	0
23	18	1,402	17	0	22	5	1,499	17	6
23	17	1,411	5	6	22	4	1,498	3	0
23	16	1,420	14	0	22	3	1,493	6	6
23	15	1,430	15	6	22	2	1,484	17	6
23	14	1,440	18	6	22	1	1,472	13	0
23	13	1,450	14	0	22	0	1,459	7	6
23	12	1,459	14	0					
23	11	1,467	18	6	21	21	1,389	17	6
23	10	1,475	7	0	21	20	1,394	11	6
23	9	1,482	0	0	21	19	1,400	9	6
23	8	1,487	17	6	21	18	1,407	13	6
23	7	1,492	12	6	21	17	1,416	5	6
23	6	1,495	16	6	21	16	1,425	17	0
23	5	1,496	15	0	21	15	1,436	2	6
23	4	1,494	19	6	21	14	1,446	9	0
23	3	1,490	2	0	21	13	1,456	7	6
23	2	1,481	12	6	21	12	1,465	11	0
23	1	1,469	8	0	21	11	1,473	18	6
23	0	1,456	2	6	21	10	1,481	10	6
					21	9	1,488	6	0
22	22	1,385	3	6	21	8	1,494	6	6
22	21	1,387	9	6	21	7	1,499	4	6
22	20	1,392	1	6	21	6	1,502	11	0
22	19	1,397	18	0	21	5	1,503	11	0
22	18	1,405	0	0	21	4	1,501	17	6
22	17	1,413	10	0	21	3	1,497	1	6
22	16	1,423	0	0	21	2	1,488	13	0
22	15	1,433	4	0	21	1	1,476	9	0
22	14	1,443	8	6	21	0	1,463	3	6
22	13	1,453	5	6					
22	12	1,462	7	0	20	20	1,399	7	6
22	11	1,470	13	0	20	19	1,405	7	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
20	18	1,412	13	6	19	2	1,502	8	6
20	17	1,421	7	6	19	1	1,490	3	6
20	16	1,431	1	6	19	0	1,476	17	0
20	15	1,441	9	0					
20	14	1,451	17	6	18	18	1,426	8	0
20	13	1,461	18	6	18	17	1,435	6	6
20	12	1,471	3	6	18	16	1,445	5	6
20	11	1,479	13	0	18	15	1,455	18	0
20	10	1,487	6	6	18	14	1,466	11	0
20	9	1,494	4	0	18	13	1,476	16	6
20	8	1,500	6	0	18	12	1,486	6	6
20	7	1,505	5	0	18	11	1,495	0	0
20	6	1,508	13	0	18	10	1,502	17	6
20	5	1,509	14	6	18	9	1,509	19	0
20	4	1,508	2	0	18	8	1,516	4	6
20	3	1,503	6	6	18	7	1,521	7	0
20	2	1,494	18	0	18	6	1,524	17	6
20	1	1,482	13	6	18	5	1,526	1	6
20	0	1,469	8	0	18	4	1,524	10	6
					18	3	1,519	15	6
19	19	1,411	9	6	18	2	1,511	7	0
19	18	1,418	17	6	18	1	1,499	1	6
19	17	1,427	14	0	18	0	1,485	14	0
19	16	1,437	10	0					
19	15	1,448	0	0	17	17	1,444	8	0
19	14	1,458	10	6	17	16	1,454	9	6
19	13	1,468	14	0	17	15	1,465	4	6
19	12	1,478	1	6	17	14	1,476	0	6
19	11	1,486	12	6	17	13	1,486	9	0
19	10	1,494	8	6	17	12	1,496	1	6
19	9	1,501	7	6	17	11	1,504	17	0
19	8	1,507	11	6	17	10	1,512	17	6
19	7	1,512	12	0	17	9	1,520	0	6
19	6	1,516	1	0	17	8	1,526	8	6
19	5	1,517	4	0	17	7	1,531	12	6
19	4	1,515	12	0	17	6	1,535	5	0
19	3	1,510	17	0	17	5	1,536	10	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
17	4	1,534	19	6	15	2	1,545	12	6
17	3	1,530	5	0	15	1	1,533	3	6
17	2	1,521	16	0	15	0	1,519	12	0
17	1	1,509	9	0					
17	0	1,496	1	0	14	14	1,509	0	6
					14	13	1,519	18	0
16	16	1,464	14	0	14	12	1,529	19	0
16	15	1,475	12	0	14	11	1,539	3	0
16	14	1,486	11	0	14	10	1,547	11	0
16	13	1,497	2	0	14	9	1,555	1	6
16	12	1,506	17	6	14	8	1,561	16	0
16	11	1,515	16	0	14	7	1,567	6	6
16	10	1,523	18	6	14	6	1,571	3	6
16	9	1,531	4	0	14	5	1,572	12	6
16	8	1,537	14	0	14	4	1,571	4	6
16	7	1,543	0	0	14	3	1,566	10	6
16	6	1,546	14	0	14	2	1,558	0	0
16	5	1,548	0	0	14	1	1,545	10	0
16	4	1,546	10	6	14	0	1,531	16	6
16	3	1,541	16	0					
16	2	1,533	6	6	13	13	1,530	18	6
16	1	1,520	19	0	13	12	1,541	2	6
16	0	1,507	9	0	13	11	1,550	9	6
					13	10	1,559	0	0
15	15	1,486	13	0	13	9	1,566	13	0
15	14	1,497	15	6	13	8	1,573	10	0
15	13	1,508	9	6	13	7	1,579	2	0
15	12	1,518	7	6	13	6	1,583	1	6
15	11	1,527	9	0	13	5	1,584	11	6
15	10	1,535	14	0	13	4	1,583	4	6
15	9	1,543	2	0	13	3	1,578	11	0
15	8	1,549	14	6	13	2	1,569	19	6
15	7	1,555	2	6	13	1	1,557	8	6
15	6	1,558	18	0	13	0	1,543	13	6
15	5	1,560	5	6					
15	4	1,558	17	0	12	12	1,551	9	6
15	3	1,554	2	6	12	11	1,560	19	6

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
12	10	1,569	12	6	9	9	1,604	9	6
12	9	1,577	8	0	9	8	1,611	15	6
12	8	1,584	7	6	9	7	1,617	16	0
12	7	1,590	1	6	9	6	1,622	2	6
12	6	1,594	2	6	9	5	1,623	18	6
12	5	1,595	14	6	9	4	1,622	15	6
12	4	1,594	8	0	9	3	1,618	4	0
12	3	1,589	15	0	9	2	1,609	12	0
12	2	1,581	3	6	9	1	1,596	17	6
12	1	1,568	11	0	9	0	1,582	18	0
12	0	1,554	14	6					
<hr/>									
11	11	1,570	11	6	8	8	1,619	3	6
11	10	1,579	7	6	8	7	1,625	6	0
11	9	1,587	5	6	8	6	1,629	14	6
11	8	1,594	7	0	8	5	1,631	12	0
11	7	1,600	3	6	8	4	1,630	10	0
11	6	1,604	6	6	8	3	1,625	19	0
11	5	1,605	19	6	8	2	1,617	7	6
11	4	1,604	14	6	8	1	1,604	12	6
11	3	1,600	1	6	8	0	1,590	12	6
11	2	1,591	10	0					
11	1	1,578	16	6	7	7	1,631	11	0
11	0	1,564	11	6	7	6	1,636	1	0
<hr/>									
					7	5	1,638	0	0
10	10	1,588	6	0	7	4	1,636	19	6
10	9	1,596	6	6	7	3	1,632	9	0
10	8	1,603	10	0	7	2	1,623	18	0
10	7	1,609	9	0	7	1	1,611	3	0
10	6	1,613	13	6	7	0	1,597	2	0
10	5	1,615	8	0					
10	4	1,614	4	0					
10	3	1,609	11	6	6	6	1,640	12	6
10	2	1,601	0	0	6	5	1,642	13	0
10	1	1,588	6	0	6	4	1,641	14	0
10	0	1,574	7	0	6	3	1,637	4	6
<hr/>									
					6	2	1,628	14	0

TABLE II.—*continued.*

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.			Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.		
		£	s.	d.			£	s.	d.
6	1	1,615	19	0	3	3	1,634	7	6
6	0	1,601	18	6	3	2	1,626	0	6
					3	1	1,613	9	6
5	5	1,644	15	0	3	0	1,599	11	6
5	4	1,643	17	0					
5	3	1,639	8	6					
5	2	1,630	19	0	2	2	1,617	16	0
5	1	1,618	5	0	2	1	1,605	7	0
5	0	1,604	4	6	2	0	1,591	11	6
4	4	1,643	0	0	1	1	1,593	1	0
4	3	1,638	13	0	1	0	1,579	9	0
4	2	1,630	4	6					
4	1	1,617	11	6					
4	0	1,603	12	6	Birth	Birth	1,566	0	0

TABLE III.

The Values of an Annuity of £100 per Annum, for any
Number of Years, not exceeding 95.

Years.	Values.	Years.	Values.
	£ s. d.		£ s. d.
1	96 3 0	30	1,729 4 0
2	188 12 0	31	1,758 16 6
3	277 10 0	32	1,787 7 0
4	362 19 6	33	1,814 15 0
5	445 3 6	34	1,841 2 0
6	524 4 0	35	1,866 9 0
7	600 4 0	36	1,890 16 6
8	673 5 0	37	1,914 5 0
9	743 10 6	38	1,936 15 6
10	811 1 6	39	1,958 8 6
11	876 0 6	40	1,979 5 6
12	938 10 0	41	1,999 6 0
13	998 11 0	42	2,018 11 0
14	1,056 6 0	43	2,037 1 6
15	1,111 16 6	44	2,054 17 6
16	1,165 4 6	45	2,072 0 0
17	1,216 11 0	46	2,088 9 0
18	1,265 18 6	47	2,104 5 6
19	1,313 7 6	48	2,119 10 0
20	1,359 0 6	49	2,134 2 6
21	1,402 18 0	50	2,148 4 0
22	1,445 2 0	51	2,161 14 6
23	1,485 13 6	52	2,174 15 0
24	1,524 13 6	53	2,187 5 0
25	1,562 4 0	54	2,199 5 6
26	1,598 5 6	55	2,210 17 0
27	1,632 19 0	56	2,221 19 6
28	1,666 6 0	57	2,232 13 0
29	1,698 7 0	58	2,242 19 0

TABLE III.—*continued.*

Years.	Values.			Years.	Values.		
	£	s.	d.		£	s.	d.
59	2,252	16	6	78	2,382	13	6
60	2,262	6	6	79	2,387	4	0
61	2,271	9	6	80	2,391	10	6
62	2,280	5	6	81	2,395	14	0
63	2,288	14	6	82	2,399	14	0
64	2,296	17	0	83	2,403	11	6
65	2,304	13	0	84	2,407	5	6
66	2,312	3	6	85	2,410	17	0
67	2,319	8	0	86	2,414	5	6
68	2,326	7	0	87	2,417	11	6
69	2,333	0	6	88	2,420	14	6
70	2,339	9	0	89	2,423	15	6
71	2,345	12	6	90	2,426	14	6
72	2,351	11	0	91	2,429	10	6
73	2,357	5	0	92	2,432	5	0
74	2,362	15	0	93	2,434	17	0
75	2,368	0	6	94	2,437	7	0
76	2,373	2	0	95	2,439	15	6
77	2,377	19	6				

Rules for inferring the Value of an Annuity of 100*l.* per Annum, held on the longest of Two Lives : also, the Value of an Annuity of 100*l.* per Annum, held on the joint continuance of Three Lives : also, the Value of an Annuity of 100*l.* per Annum, held on the longest of Three Lives.

*Rule for determining the Value of an Annuity of 100*l.* per Annum, held on the longest of Two Lives.*

The values of an annuity of 100*l.* per annum held on each of the single lives, to be added together (from table I.), and from this sum the value of an annuity held on the joint continuance of the two lives (from table II.) to be subtracted ; the result is the value of an annuity of 100*l.* per annum, held on the longest of the two lives.

*Rule for determining the Value of an Annuity of 100*l.* per Annum, held on the joint continuance of Three Lives.*

The value of an annuity of 100*l.* per annum on the joint continuance of the two elder lives is to be found from table II. The age of a single life of the same (or nearest) value, with the annuity on the said joint lives, to be found from table I. The value of an annuity of 100*l.* per annum on the joint continuance of this life and the younger life from table II., five pounds being deducted from this sum, the remainder is the value of an annuity of 100*l.* per annum held on the joint continuance of the three lives.

*Rule for determining the Value of an Annuity of 100*l.* per Annum, held on the longest of Three Lives.*

The values of an annuity of 100*l.* per annum for each of the three single lives to be extracted from table I., and to be added together. The value of an annuity of 100*l.* per annum on the joint continuance of the two

youngest lives, also the value of an annuity of 100*l.* per annum on the joint continuance of the two eldest lives, also the value of an annuity of 100*l.* per annum on the joint continuance of the eldest life and the youngest life, (all found by table II.,) to be subtracted from the sum or addition of the annuities on the three single lives : to the result is to be added the value of an annuity of 100*l.* per annum, held on the joint continuance of the three lives ; the amount is the value of an annuity of 100*l.* per annum on the longest of the three lives.

Further Rule.

And in all cases where the annuity shall be for more than three lives, the same shall be valued as an annuity for the three youngest of such lives : and where the annuity shall be given for a longer term of years than ninety-five years, or in perpetuity, the same shall be valued as an annuity for ninety-five years only.

REFERENCE TO PUBLISHED TABLES.

To facilitate calculations under the Legacy Duty Acts and the Succession Duty Act, 1853, two sets of tables have been published, one called New Government Succession Duty Tables, by A. G. Finlaison, Actuary of the National Debt Office. Published by Chapman and Hall, Piccadilly.

Another set is also published, called Willich's New Succession Duty Tables, by C. M. Willich, Actuary and Secretary to the University Life Assurance Society. Longman & Co. 1854. This set of tables can be conveniently bound up with this volume for reference.

DIRECTIONS

AS TO

PAYMENT OF DUTIES AND FILLING UP THE FORMS

SUPPLIED BY

THE COMMISSIONERS OF INLAND REVENUE.

Directions as to Payment of Duty.

Course of
proceeding
for compelling
parties
to account
for duties.

THE Commissioners of Inland Revenue, under the powers confided to them for the collection of the probate, legacy and succession duties, possess the means (although it is not obligatory upon them to do so) of apprising executors, administrators and successors, of the duties for which they are liable to account, and of protecting them from incurring penalties through ignorance. The principal feature of the system, so far as relates to wills and letters of administration, and successions under wills, is, that the office is regularly supplied by the several testamentary courts with copies of all wills proved, and certain particulars of all letters of administration granted in such courts (a). By these means the commissioners obtain *prima facie* evidence of the amount of duties to become due on the property of every deceased person whose will is proved, or in respect of whose estate letters of administration are granted. On the registration of the copies of wills and abstracts of letters of administration, circular letters are written to the executors or administrators, apprising them of the circumstances, and giving them a succinct statement of the different duties payable on legacies, and the manner in which they are to be accounted for (b).

(a) See *ante*, p. 17.

(b) See Gwynne on Probate and Legacy Duties, pp. 52, 53, 2nd ed.

The commissioners do not possess the same means of ascertaining succession duty under deeds, but it is to be observed that the copies of the registered wills will give them the necessary information for inquiring after succession duty.

Although the Commissioners of Inland Revenue do not possess the same means by reference to an index of deeds of the existence of settlements, yet the change of the ownership of real estates is generally a matter of notoriety, and the revenue officers employed in the country districts will, no doubt, be directed to give notice where the ownership of land has changed.

The acts of parliament do not render it obligatory upon the Commissioners of Inland Revenue to write the letters before mentioned, and therefore parties who are aware that they are liable to account for legacy or succession duties, if well advised, will offer payment, although they have not received any letter from the commissioners.

At the expiration of twelve months from the date of the circular letter, if the duties in the mean time have not been accounted for, another letter requiring payment of all unsettled duties is addressed to the executors or administrators, or other party liable to account. If the residuary personal estate is bequeathed to or devolves upon parties chargeable with duty, another letter is addressed to the executor or administrator, calling for a full account of the estate of the deceased, and of the manner in which it has been disposed of. If attention be not paid to this letter within a short time, and the duties remain unaccounted for, other and more urgent letters are written, until the payment of the duty shall be obtained, or it be shown to the satisfaction of the officer that none are payable. If the applications be attended by neither of the above results, the case is handed over to the solicitor of the inland revenue, with directions to institute legal proceedings against the parties liable to account to render their account (c).

(c) See Gwynne on Probate and Legacy Duties, p. 54, 2nd ed.

Mode of paying the Duty in London and in the Country.

If an executor or administrator reside in London or within its suburbs, or in any part of the county of Middlesex, he must either attend in person or by an agent at the Legacy Duty Office, Somerset House, for the purpose of passing his accounts and paying the duty. In the case of a simple pecuniary legacy to an adult, the executor before payment of the legacy should take the printed form No. (1) and fill up the blanks in accordance with the facts of the case.

The mode of paying duty where executors do not reside in London or suburbs.

Executors resident in Great Britain, beyond the limits above mentioned, may pay the duties to a stamp distributor of stamps, or his deputy, in the country. The necessary documents, as the legacy discharge, &c., must be deposited with the distributor, who will receive the duty, and give an acknowledgment on a printed form for the duty paid. The documents have to be transmitted to the head office in London for examination previously to their being registered and stamped. The legacy papers deposited with the stamp distributors are transmitted monthly to the head office, and a period of a few weeks must elapse before they are returned to the distributors, from whom the parties may learn when the papers ought to be returned (*d*). If any material explanation should be required by the office in London before the documents are stamped, the executor should make a written statement, to be attached to the papers to be sent to the office in London by the stamp distributor.

The forms to be filled up by the parties under the Legacy Duty Acts and the Succession Duty Act, 1853, are six in number, and may be obtained at the office of the Commissioners of Inland Revenue in London, and of the distributors of stamps in the country.

List of Forms under the Legacy Duty Acts.

Form No. 1 is a Legacy Receipt or Discharge (*e*).

No. 2 is a Receipt for an Annuity (*f*).

(*d*) See Gwynne on Probate and Legacy Duties, pp. 59, 60, 2nd ed.

(*e*) *Post*, p. 354.

(*f*) *Post*, p. 355.

Form No. 3 is called the Residuary Account. This form of account is to be delivered (in duplicate) of personal estate, and of monies arising from real estate, devised to be sold, &c. for the purpose of having the legacy and residue duties charged and assessed pursuant to the Acts of 36 Geo. 3, c. 52, and 45 Geo. 3, c. 28, and 55 Geo. 3, c. 184.

DIRECTIONS.

1. Executors and administrators, before the retainer of any part of the property to their own use, are to deliver the particulars thereof at the Legacy Duty Office, in London, or to the distributor in whose district they reside, and pay the duty thereon within fourteen days after, under the penalty of treble the value of the duty.

2. All rents, dividends, interest and profits arising from the personal estate of the deceased or real estate directed to be sold, subsequent to the time of his or her death, and all accumulations thereof, down to the time of delivering the account and offering to pay the duty on the residue, must be considered as part of the estate, and be accounted for accordingly.

*** 3. *Any account transmitted by post, or left under cover at the office, will either be returned to the parties or thrown aside unnoticed.*

List of Forms under the Succession Duty Act, 1853.

No. 4 is the form to be filled up in respect of Succession Duty for property not chargeable by way of annuity (g).

Personal property includes money charged on real property and money to arise from the sale of real property.

The party making the return is to state the title, whether under settlement, by survivorship or in any other manner, and if under a deed or document, the date thereof and the names of the parties thereto.

State whether trustee, &c. or successor.

No. 5 is for Succession Duty for an annuity or life interest in Personal Property (h).

The party making the return is required to state the title, whether under settlement, by survivorship, or in any other manner, and if under a deed or document, the date thereof and the names of the parties thereto.

The party making the return has to state in what character it is made, whether as successor or as trustee, executor, administrator or guardian, &c. (i).

(g) *Post*, p. 357.

(h) *Post*, p. 358.

(i) See *ante*, p. 272, s. 44.

No. 6 is for the Succession Duty on Real Property, which includes all freehold, copyhold, customary, leasehold and other hereditaments, whether corporeal or incorporeal (*k*).

[*This account to be delivered in duplicate.*]

The party making the return is to state the title, whether under settlement, will, intestacy or by descent, and if under any deed or other document, the date thereof and the names of the parties thereto; and also whether trustee, &c. or successor.

Instructions for filling up the Forms No. 1 and 2.

First. In the place marked out for the purpose of the reference to the entry of the will in the office registers.

Form, No. 1.

LEGACY RECEIPT.—Inland Revenue.

I.	Register	No.	18	Folio	.
----	----------	-----	----	-------	---

Secondly. He should insert the name and description of the testator, and the day of his death.

II. On account of the personal estate of *Aaron Abel*, late of
in the county of gentleman, who died on the day
of one thousand eight hundred and .

Thirdly. The names, places of residence and descriptions of the executors or trustees.

Fourthly. The correct title of the court in which the will was proved and the date of the probate.

IV. Acting under probate of the will granted by the Prerogative Court of the Archbishop of Canterbury on the day
of one thousand eight hundred and .

Fifthly. In their proper columns the name of the legatee and his or her relationship to the testator of the legacy, for instance pecuniary legacy.

Name of the legatee.	Degree of relationship, to be stated in the words of the act.	Describe the nature of the bequest.	Value.	Duty per cent.	Amount of duty.	
<i>Emily Aarm.</i>	Child of the deceased.	Pecuniary legacy.	£ 1000	£ 1	£ 10	s. 0

Sixthly. The date of the payment and the other particulars to complete the legatee's receipt for the same, which receipt should be signed by the legatee on the day of the date thereof.

VI. Received the day of 185 the sum of one thousand pounds, being the legacy above-mentioned, having first allowed or paid ten pounds for the duty thereon.

Form, No. 2.

Register	No.	18	Folio	.
----------	-----	----	-------	---

On account of the real estate of *Aaron Abel*, late of in the county of gentleman, who died on the day of one thousand eight hundred and

Names of devisees }
in trust, with their } *Aaron Abel, jun., of &c. Esq.*
residence and profes- }
sion. }

Acting under probate of will granted by the Prerogative Court of the Archbishop of Canterbury on the day of one thousand eight hundred and

Name of the annuitant, with the name and age of the life or lives, or the number of years for which the annuity is to endure.	Degree of relationship, if any, must be stated in the words of the act, as on the other side.	Amount of the annuity.	Age or ages, or No. of years when annuity commenced.	Value of the annuity.	Rate of duty per cent.	Amount of duty.
John Jones, for his own life.	Descendant of a sister of the deceased.	£ 20	50		3	
<p>In this space insert any special matter necessary to explain the mode in which the annuity is given.</p> <p>Charged on the real estate of the deceased devised to the said <i>Abel Aaron, jun.</i></p>		<p>Amount of the first years' annuity £ 50</p> <p>Allowed the payment of duty</p>				
		<p>OBSERVE.—The duty on annuities is payable by four annual instalments in the first four years from the commencement of the annuity, and a penalty will be incurred if each of the succeeding instalments of duty be not paid in due time.</p> <p>Should the annuitant die before the four years have expired, the date of his or her death must be communicated, in writing, to the comptroller of the legacy duties.</p>				
		Balance received £				

Received the day of 185 the sum of
being the first year's payment of my annuity above mentioned,
having first allowed or paid the sum of for the duty thereon.

INLAND REVENUE.

Received the day of 185 the sum of £ for
the duty on account of the within mentioned annuity.

£

Registered.

Comptrolled.

Form, No. 6.

Forms under the Succession Duty Act, 1853.

Register of the year 18 . Folio .

An account of the succession to real property of *Charles Cary*, of
in the county of , upon the death of *James Cary*, who
died on the 10th day of May, 1854, derived from the said *James Cary*,
the predecessor, as the only son and heir at law of the said *James*
Cary, delivered by the said *Charles Cary*.

Description of property.	Saleable value.		Annual value.	
	£		£	
Freehold estate, situate in the parish of in the county of , con- taining by estimation one hundred acres, or thereabouts.	5,000		200	
Total.....£	5,000		200	

Deductions.	Capital.			Annual payments.		
	£	s.	d.	£	s.	d.
Secured by an indenture of mortgage dated the day of , 1840, and made between the said <i>James Cary</i> of the one part, and <i>C. D.</i> of the other part.....	400	0	0	20	0	0
Land tax				5	0	0
Total....£	200	0	0	25	0	0

	£	s.	d.
Total gross annual value.....	200	0	0
Total annual value of deductions	25	0	0
Net annual value.....	175	0	0

Succession Duty.

357

I, *Charles Cary*, declare that this is a just and true account of all the succession in real property of *Charles Cary*, upon the death of the before-named *James Cary*, and that the said *Charles Carey* was born on the 6th day of *May*, 1805, and is a lineal descendant of the said *James Cary*, the predecessor from whom the said property is derived.

Dated this day of 18 .

[Here sign the account.]

ASSESSMENT.

The value of an annuity of £175 for a life aged fifty is £ , and the duty on this sum at the rate of £1 per cent. is assessed at £ .

By the commissioners

RECEIPT FOR DUTY.

Received the day of 18 , the sum of £ , being the first instalment of the duty above-mentioned (1).

£

Registered.

Comptrolled.

(1) The duty is payable by eight equal half-yearly instalments; the first to be paid twelve months after the successor shall have been entitled in possession, and the seven following instalments at half-yearly intervals of six months each; and, if there be any delay in payment, penalties will be incurred.

Form, No. 4.—Absolute.

Register of the year 18 . Folio .

An account of the succession to personal property of *James Bell* of in the county of upon the death of *John Bell* of in the county of who died on the day of 1854, derived from the said *John Bell*, the predecessor, under an indenture bearing date the day of 1809, and expressed to be made between [*names of the parties*], delivered by the said *James Bell* the successor.

If this space be not sufficient for all the property comprised in the succession, a schedule should be annexed, and the totals inserted in this account.	Description of property.	Value.		
		£	s.	d.
	Secured by an indenture of mortgage dated &c. and made between &c. }	5,000		
	Total....£	5,000		

I, *James Bell*, declare that this is a just and true account of all the personal property to which I, *James Bell*, was entitled to succeed

beneficially upon the death of the before-named *John Bell*, and that the said *James Bell* is a lineal descendant of the said *John Bell*, the predecessor from whom the said property is derived.

Dated this day of 185 .

[*Here sign the account.*]

ASSESSMENT.

The duty on the said sum of £5,000, at the rate of £1 per cent. is assessed at £50.

By the commissioners.

RECEIPT FOR DUTY.

Received the day of 185 , the sum of £50 for duty on account of this succession.

£50 0 0

Registered.

Comptrolled.

Observe.—The duty is payable when the property or any part thereof is paid to or retained for the successor, and if there be delay in payment, penalties will be incurred.

Form, No. 5.—*Annuity.*

Register of the year 18 . Folio .

An account of the succession of *Abel Adams* of in the county of , Esq., upon the death of *John Adams*, of, &c. Esq., who died on the day of 18 , derived from the said *John Adams*, the predecessor under an indenture dated the 10th day of May, 1815, and made between the said *John Adams* of the first part, *Lucy Archer*, spinster, of the second part, and *C. D.* and *E. F.* of the third part, delivered by the said *Abel Adams*.

If this space be not sufficient for all the property comprised in the succession, a schedule should be annexed, and the totals inserted in this account.	Description of property.	Annual value.		
		£	s.	d.
	£10,000 Three per Cent. Consolidated Bank Annuities standing in the names of the said <i>C. D.</i> and <i>E. F.</i>	300		

I, *Abel Adams*, declare that this is a just and true account of all the property, not being real estate or leasehold, to which *Abel Adams* was entitled to succeed beneficially for life upon the death of the before-named *John Adams*, and that the said *Abel Adams* was born on the 19th day of May, 1815, and is a brother of the said *John Adams*, the predecessor, from whom the said property is derived.

[*Here sign the account.*]

ASSESSMENT.

The value of an annuity of £300 for a life aged fifty is £ , and the duty on this sum at the rate of £3 per cent. is assessed at £ .

By the commissioners.

RECEIPT FOR DUTY.

Received the day of 1855, the sum of £ , being the first instalment of the duty above-mentioned (m).

£

Registered.

Comptrolled.

(m) The duty is payable by four equal yearly instalments, the first to be paid twelve months after the successor shall have been entitled in possession, and the three following instalments at intervals of one year each; and, if there be any delay in payment, penalties will be incurred.

CHANCERY ABSTRACT (a).

W. Register No. 18 Folio

In re deceased, who died on the day of 18 .

STATEMENT OF THE FUNDS.

Describe the nature of the suit and the period when the funds were paid into court, and state whether such payment included the whole gross amount of the estate, or only the balance after the payment of debts, &c., with the particulars thereof.

(a) It sometimes happens that in consequence of a chancery suit the duties have not been accounted for at the Inland Revenue Office until the ordinary means of rendering such an account as is required by law are lost, and the documents in the suit are the only things which can be used for the purpose. See Gwynne on Probate and Legacy Duties, p. 177, 2nd edit. This Chancery Abstract is substituted for the Residuary Account, Form No. 3, ante, p. 353, which is not inserted at full length in this work on account of the space which it would have occupied.

Amount paid into court,
as per order, dated {
Specifying the funds, and {
whether placed to the se- {
parate accounts of the lega- {
tees or not. }

DISTRIBUTION OF THE FUNDS, AS PER ORDERS.

Maintenance (if any).
Specify dates of orders {
and amount of each, and {
whether out of principal or {
dividends. }

Costs.
Specify dates and amount {
of each payment, also the {
object for which they were {
incurred. }

Other Payments.
Specify dates, the amount {
and to whom made. }

Balance.
Produce the accountant- {
general's certificate of the {
fund remaining in court, and {
show what has been done {
with the income of the estate {
while the funds have been {
under the control of the {
court. }

SUPPLEMENTAL ACCOUNT.

[Add such further particulars as the circumstances of the
case may require.]

SPECIAL FORMS.

Register No. 18 Folio

Legacy.

On account of the personal estate of who died on
the day of , and the will proved by in
the court of on the day of 18 .

It appearing that the legac hereafter mentioned, be-
queathed by the will of the deceased, w paid or delivered
by the execut to the legatee hereafter named :

And it further appearing, that the duty has not been
paid for the said legac , within the time prescribed by
law, so that any receipt given for the same cannot now be
stamped, and made evidence, without payment of a penalty,
besides the duty ; and the said execut and legatee de-
clining to pay the penalty, but having offered to pay the
duty : let the duty be received as undermentioned, but any
receipt for the legac is not to be stamped until payment
of the penalty.

Received day of 18 the sum of
for the duty above assessed.

Comptrolled.

Registered.

FORM OF CERTIFICATE FOR THE ACCOUNTANT-
GENERAL.

Register No. 18 Folio
Inland Revenue Office.

We, her Majesty's Commissioners for managing the
Inland Revenue, do hereby certify that the of
paid the sum of being after the rate of per cent.
on the sum of payable to .

And the said purpose to pay the balance, being
 , into the Bank of England with the privity of the
Accountant-General of the Court of Chancery, to be placed
to the account of the said .

Dated this day of 185 .

Comptrolled.

To the Accountant-General
of the Court of Chancery, &c.

FORMS APPLICABLE TO SUCCESSION DUTY (a).

*Form of Petition of Appeal against the Assessment of
the Commissioners of Inland Revenue.*

In the Exchequer.

In the matter of the Succession Duty
Act, 1853, and in the matter of
[name] successor to the real estate
[or personal estate] under deed
or will of which [state the in-
strument] the party claims.

To the Right Honourable [name] Chancellor and
Under Treasurer of her Majesty's Court of Ex-
chequer at Westminster; to the [name], Knight,
Lord Chief Baron of the same Court, and to the
rest of the Barons there:

The humble petition of [the successor], in the parish
of in the county of ,

Showeth,

That by [state concisely the deed or will under which
the question arises and the other necessary facts]: That
your petitioner made a return to the Commissioners of
Inland Revenue of all the succession on real property
[or personal property, as the case may be] accruing to
him upon such death as aforesaid, and in such return
claimed to have an allowance made to him under the
provisions of the Succession Duty Act, 1853, in respect
of [state in respect of what the allowance is claimed]:
That the said Commissioners have in the assessment
made by them in respect of such succession refused
to make such allowance as aforesaid: That the sum in
dispute in respect of duty on such assessment amounts
to the sum of 1,000*l*.

That your petitioner [or his solicitor, as the case

(a) These are not official forms. The petition of appeal is filed
in the office of the Queen's Remembrancer. See *post*, pp. 369—
373.

may be] delivered to the said commissioners, within twenty-one days after the date of the said assessment, notice in writing of his intention to appeal against such assessment, and within the further period of thirty days delivered a statement of the grounds of such appeal to the said commissioners, as appears by the affidavit of _____, of the due service of the said notice and of the said statement on the said commissioners _____ sworn in this matter the _____ day of _____ : That the grounds of appeal contained in the said statement are as follows [*state the grounds of appeal*], that your petitioner is dissatisfied with the assessment of the said commissioners and aggrieved thereby, and submits to your lordships that the same ought to be rescinded [*or, that an inquiry, valuation or report ought to be made by an officer of the said court or by some other person*].

Your petitioner therefore humbly prays your lordships that the assessment of the said commissioners may be altered or varied so far as the same omits to make to your petitioner an allowance under the provisions of the said act for or in respect of [*here state the ground upon which an alteration or variation is claimed, and refer to the section of the act under which it is claimed, if necessary,*] or that your lordships will be pleased to make such other order in the premises as to your lordships shall seem fit.

And your petitioner will ever pray, &c.

N. B.—*Such affidavits must be filed in support of the petition, as the circumstances of the case may require, for the satisfaction of the Court.*



*Ground of Appeal against the Assessment of the
Commissioners of Inland Revenue.*

In the matter of Abel Adams, successor to real estates under the wills of John Adams, late of in the parish of in the county of Esquire, deceased, and of James Adams, late of afore-said.

Statement of Grounds of Appeal against an Assessment made by the Commissioners of Inland Revenue on the above-named Abel Adams in respect of his succession under the above-mentioned Wills :

By an indenture dated the 28th of May, 1849, and made between N. Adams of the first part, W. Adams of the second part, Abel Adams of the third part, Charles Eden of the fourth part, Emily Eden of the fifth part, A. Ash, F. Adams and G. Lynn of the sixth part, and Edward Eden and Frederick Adams of the seventh part, being the settlement made upon the marriage then intended and shortly afterwards solemnized between the said Abel Adams and Emily Eden, the said Charles Eden, on behalf of himself, his heirs, executors and administrators, covenanted to pay to the said Edward Eden and Frederick Adams an annual sum of 500*l.* during the lives of the said Abel Adams and the said Emily Eden, and the life of the survivor, payable half-yearly on the 29th day of May and the 29th day of November in each year ; and it was by the said indenture declared that the said Edward Eden and Frederick Adams, their executors, administrators and assigns, should hold the said annuity of 500*l.* upon trust to pay the same to the said Abel Adams during his life, and after his death, to the said Emily Eden during her life : And it was by the said indenture provided, that if the said Abel Adams or his assigns should by reason of the death without issue male of the said James Adams come into possession of certain estates therein mentioned to have been devised to the said Abel Adams and his assigns for his

life by the will of the said John Adams, deceased, and which will bears date the 24th day of October, 1822, or should come into possession of the estates in the counties of Norfolk and Suffolk at the date of the indenture now in recital enjoyed by the said N. Adams or any of them, then, and in either of such cases, the said covenant thereinbefore contained on the part of the said Charles Eden, his heirs, executors and administrators, for the payment of the said annuity or yearly sum of 500*l.*, should absolutely cease, determine and be void.

The payment of the said annuity of 500*l.* in manner aforesaid was secured by a deposit of certain Norfolk Railway Extension Stock, guaranteed 5*l.* per cent., which the said Charles Eden was to be at liberty to withdraw upon depositing other sufficient security.

The said James Adams died on the 3rd of September, 1853, without issue male.

Upon such death as aforesaid, the said Abel Adams came into possession of the estates in the said proviso mentioned to have been devised to the said Abel Adams and his assigns for his life by the said will bearing date the 24th day of October, 1822, and thereupon the said Abel Adams was deprived of the said annuity so payable to him as aforesaid.

The said Abel Adams made a return to the commissioners of all the succession in real property accruing to him upon such death as aforesaid, and in such return claimed to have an allowance made to him under the 38th section of the Succession Duty Act, 1853 (a), in respect of the value of the said annuity of which he has been so deprived as aforesaid.

The commissioners have, on the assessment made by them in respect of such succession, refused to make such allowance as aforesaid.

The said Abel Adams intends to appeal against such assessment to her majesty's Court of Exchequer, at their sittings to be held at Westminster, in the county of Middlesex, during Hilary Term now next ensuing, and the ground on which the said Abel Adams relies to support such appeal is, that the commissioners,

(a) *Ante*, p. 269.

having regard to the aforesaid circumstances, ought to have allowed the claim so made by the said Abel Adams as aforesaid.



Form of Petition of Appeal against the Assessment of the Commissioners of Inland Revenue, for an Allowance in respect of Property relinquished under the 38th section of the Succession Duty Act, 1853 (a).

In the Exchequer.

In the matter of Abel Adams, successor to the real estate under the wills of John Adams, late of , in the parish of , in the county of , Esquire, deceased, and of James Adams, late of aforesaid, deceased.

To the Right Honourable William Ewart Gladstone, Chancellor and Under-Treasurer of her Majesty's Court of Exchequer at Westminster; to the Right Honourable Sir Frederick Jonathan Pollock, Knight, Lord Chief Baron of the same Court, and to the rest of the Barons there:

The humble petition of Abel Adams, of , in the parish of , in the county of , Esquire, Showeth,

That by an indenture dated the 28th May, 1849, and made between N. Adams of the first part, James Adams of the second part, your petitioner of the third part, Charles Eden of the fourth part, Emily Eden of the fifth part, Francis Ash, Frederick Adams and A. Lynn of the sixth part, and Edward Eden and F. N. Adams of the seventh part, being a settlement made upon the marriage then intended and shortly afterwards solemnized between your petitioner and Emily Eden,

(a) See *ante*, p. 269. The profession will be indebted to the solicitors for the appellant, in an appeal now pending before the Court of Exchequer, for this and the preceding form, which were drawn by Counsel. Fictitious names are substituted for the real names.

the said Charles Eden, on behalf of himself, his heirs, executors and administrators, covenanted to pay to the said Edward Eden and F. N. Adams an annual sum of £500 during the lives of your petitioner and the said Emily Eden, and the life of the survivor, payable half-yearly on the 29th day of May and the 29th day of November in each year: And it was by the said indenture declared, that the said Edward Eden and Frederick Adams, their executors, administrators and assigns, should hold the said annuity of £500 upon trust to pay the same to your petitioner during his life, and after his death to the said Emily Eden during her life: And it was by the said indenture provided, that if your petitioner or his assigns should, by reason of the death without issue male of the said John Adams, come into possession of certain estates therein mentioned to have been devised to your petitioner and his assigns for his life by the will of the said John Adams, deceased, and which will bears date the 24th day of October, 1822, or should come into possession of the estates in the county of Norfolk and Suffolk at the date of the indenture now in recital enjoyed by the said N. Adams, or any of them, then, and in either of such cases, the said covenant therein before contained on the part of the said Charles Eden, his heirs, executors and administrators, for the payment of the said annuity or yearly sum of 500*l.*, should absolutely cease, determine and be void.

That the payment of the said annuity of 500*l.* in manner aforesaid was secured by a deposit of certain Norfolk Railway Extension Stock, guaranteed 5*l.* per cent. which the said Charles Eden was to be at liberty to withdraw upon depositing other sufficient security.

That the said John Adams died on the 3rd day of September, 1853, without issue male.

That upon such death as aforesaid, your petitioner came into possession of the estates in the said proviso mentioned to have been devised to your petitioner and his assigns for his life by the said will bearing date the 24th day of October, 1822, and thereupon your petitioner was deprived of the said annuity so payable to him as aforesaid.

That your petitioner made a return to the commis-

sioners of all the succession in real property accruing to him upon such death as aforesaid, and in such return claimed to have an allowance made to him under the provisions of the Succession Duty Act, 1853, in respect of the value of the said annuity of which he has been so deprived as aforesaid.

That the commissioners have in the assessment made by them in respect of such succession refused to make such allowance as aforesaid.

Your petitioner therefore humbly prays your lordships, that the said assessment of the said Commissioners of Inland Revenue may be rescinded, so far as the same omits to make to your petitioner an allowance in pursuance of the provisions of the said Succession Duty Act, 1853, in respect of the value of the said annuity of 500*l.* per annum, of which he has been so deprived as aforesaid: And that such allowance as aforesaid may be ordered to be made to your petitioner, or that your lordships will be pleased to make such other order in the premises as to your lordships shall seem meet.

And your petitioner will ever pray, &c.

N.B.—*An affidavit repeating the statements contained in the above petition is required to support it.*

NOTE ON THE QUEEN'S REMEMBRANCER'S OFFICE.

In the preceding pages reference has been made to some of the statutes under which the Legacy and Succession Duties may be recovered (*a*). The Author, having been unable to find in any book of practice the present constitution of the Queen's Remembrancer's Office, trusts that the following short account of it may be acceptable to the profession and the public.

The Queen's Remembrancer is an ancient officer on the equity side of the Court of Exchequer, the duties of which office, until the abolition of the equitable jurisdiction of the Court of Exchequer, were performed in the Exchequer office in the Temple. The office is now removed to 22, Duke Street, Westminster, and consists of the Queen's Remembrancer, a chief clerk, and several other officers (*b*). The Queen's Remembrancer was formerly the registrar of the equity side of the Court of Exchequer, who exercised that office by deputy (*c*). Office of
Queen's Re-
membrancer.

The jurisdiction of the Court of Exchequer as a Court of Equity has been abolished and transferred to the Court of Chancery (*d*). The suits depending and the proceedings transferred to the Court of Chancery were directed to be carried on according to the practice of the latter court (*e*). Jurisdiction
of Equity
side of Ex-
chequer.

In an information against a person for an alleged breach of the revenue laws, and upon which proceedings had been taken in the equity side of the Court of Exchequer, it was considered questionable whether the equitable jurisdiction of that Court in revenue causes was transferred to the Court of Chancery by 5 Vict. c. 5, s. 2 (*f*).

(*a*) See *ante*, pp. 253—255.

(*b*) See 1 Fowl. Exch. pp. 9, 10. See Manning's Exchequer, pp. 1—3; Law List, 1855, p. 516.

(*c*) See Fowl. Exch. 192.

(*d*) 5 Vict. c. 5, s. 1.

(*e*) *Ib.* s. 2.

(*f*) *Attorney-General v. Kingston*, 1 Dowl. N. S. 450; 8 Mees. & W. 163.

Note on the Queen's Remembrancer's Office.

In the *Attorney-General v. Halliday* (g) it was decided that the equity jurisdiction of the Court of Exchequer as a court of revenue was not taken away by the stat. 5 Vict. c. 5, s. 1. But it was held by Lord Langdale, M. R., that the whole equity jurisdiction of the Court of Exchequer, including that relating to the revenue, was transferred to the Court of Chancery by 5 Vict. c. 1, s. 1. His lordship also decided that the crown might, before the abolition of the Equity Exchequer, have proceeded on the equity side in respect of a *legal* right, and might (April, 1845) proceed in the same way in the Court of Chancery (h).

Abolition of various offices in the Court of Exchequer.

After the 15th of October, 1841, the offices of accountant-general of the Court of Exchequer, master on the equity side of the same court, clerk to the accountant-general, and clerk of the reports of the Court of Exchequer, and clerk examiner to the Barons of the same court were abolished (i).

After the 1st of January, 1843, the several offices or employments of first and second secondaries of sworn and side clerks of register, and the bagbearer in the office of her Majesty's Remembrancer in the Court of Exchequer, were abolished, but the act did not abridge, lessen or in anywise affect the right or privilege theretofore enjoyed or held by the sworn and side clerks to practise as attornies on the revenue side of the Court of Exchequer in the same manner as other attornies practise therein (j).

The Queen's Remembrancer to perform the duties heretofore performed by the first and second secondaries and sworn and side clerks of his office;

From and after the 1st of January, 1843, all process and other proceedings, acts, matters and things, usually issued, done, had, received, filed, recorded or taken by the first and second secondaries, and sworn and side clerks, and register of the Queen's Remembrancer's Office, which shall be by law required or needful to be issued, done, had, received, filed, recorded or taken, shall and may be

(g) 15 Mees. & W. 687.

(h) *Attorney-General v. Corporation of London*, 8 Beav. 270; 1 H. of L. Cas. 440.

(i) 5 Vict. c. 5.

(j) 5 & 6 Vict. c. 36, s. 1.

issued, done, had, received, filed, recorded and taken by her Majesty's Remembrancer in the said Court of Exchequer, as fully and effectually, to all intents, constructions and purposes, as the same might or could have been issued, done, had, received, filed, recorded or taken by the said first and second secondaries, and sworn and side clerks, and register, before the passing of the act; subject nevertheless to all such orders and directions as should be made from time to time by the Lord Chief Baron and other Barons of the Court, for regulating the proceedings and practice of the remembrancer's office(j); and all records, books, papers and documents of and concerning the duties and business of the several offices thereby abolished, should, on or before the 1st of January, 1843, be delivered by the said officers respectively into the custody of the Queen's Remembrancer, to be by him kept and preserved (k).

subject to regulation by the orders of the Court.

The treasury commissioners, or any three or more of them, were directed by their warrant to regulate the establishment of the office of the Queen's Remembrancer; and the said commissioners were to fix the salaries of the remembrancer, and of his clerks and other persons whom it may be necessary to employ in the said office (l).

The lords of the treasury to regulate establishment of the Queen's Remembrancer and to fix the salaries.

The chief baron and other barons of the Court of Exchequer were required, before the 1st January, 1843, to settle and establish a table of the fees which in their judgment were proper to be demanded and taken in the said office of the remembrancer, and such table of fees was to be recorded in the remembrancer's office, and to be deemed to be the lawful fees to be thenceforth demanded and taken in such office. The

Table of fees to be established.

(j) No rules have been made by the barons of the Exchequer for the regulation of the practice, otherwise than the table of fees to be taken therein, see *post*, p. 374.

(k) 5 & 6 Vict. c. 86, s. 2.

(l) *Ib.* s. 3. The Author has been informed, on sufficient authority, that the warrant referred to in this section in no respect affects or touches upon the legal practice of the Queen's Remembrancer's Office, and that it merely regulates the establishment and the appointments, and exclusively concerns the officers of that department.

chief baron and other barons of the Court of Exchequer may add to, reduce, alter or amend the said table of fees whenever they may deem it necessary and proper so to do; and the fees so revised and altered shall in like manner be deemed and taken to be the lawful fees of such office: provided always, that no such fees shall be charged or be payable for any of the business transacted in such office for and on behalf of the crown relating to any of the public departments of revenue or otherwise, except in cases where parties are required by law to pay the costs incurred by the crown upon any proceedings taken against them (*k*).

An account of fees is directed to be kept (*l*).

Power was given to the treasury to award compensation (*m*).

Attornies of Queen's Bench, &c. to practise on revenue side of the Court of Exchequer.

All persons admitted or admissible to practise as attornies in the Courts of Queen's Bench, Common Pleas, or Exchequer of Pleas shall be admissible in like manner as attornies of the Court of Exchequer on the revenue side, and be allowed to practise there as such accordingly; and the Lord Chief Baron and other barons of the said court were required, by rule of Court, to settle the amount of fees to be taken and received by attornies practising on the revenue side of the said court, for the duties and services to be performed by them, and which fees, so settled, shall be allowed on the taxation of costs (*n*).

Writs and other process to be made returnable without delay, when necessary or proper.

All or any commissions, extents, writs or other process of whatever denomination to be thereafter issued from the Queen's Remembrancer, in pursuance of that or any former or other act or acts, or according to the ancient usage or practice of the Court of Exchequer, may bear teste and be made returnable and be returned on any day certain in term or vacation to be named in such commission, extent, writ or other process, and thereupon, and at the return of any such commission, extent, writ or other process, the like rules may be given, and such other proceedings had, and such subsequent writs and

(*k*) 5 & 6 Vict. c. 86, s. 4.

(*l*) Ib. s. 5.

(*m*) Ib. s. 6.

(*n*) Ib. s. 7.

process issued, at any time in vacation, as may be given, had or issued in term, or at or before the seal day after term. All such commissions, extents, writs or other process, rules and proceedings to be as valid and effectual as if the same had been tested and made returnable, or given, or had, or issued in term, according to the common law and course of the Exchequer: but nothing therein contained should extend to alter the time for filing any pleadings, or to authorize the entering up any judgment in vacation; and that where any person shall enter a claim to any goods seized under any extent, or returned as forfeited (which may be done in vacation), the further proceedings shall be only according to the ordinary practice and course of the court (o).

That all such orders relating to revenue causes and matters of revenue as had heretofore been made at the sittings of the Court of Exchequer held after term may be made at any time by any single judge out of court (p).

Certain revenue orders may be made by a single judge.

The act not to prejudice or in anywise affect the power, jurisdiction, or authority of the Lord Chief Baron and the other barons of her Majesty's Court of Exchequer, or the ancient rights or privileges of the Queen's Remembrancer, or the rights or privileges of any person appointed to be solicitor or attorney on behalf of the crown under the orders and directions of the commissioners of the treasury, customs, excise, or stamps, or under the orders and directions of any commissioners or other person or person having the management of any other branch of the revenue, save so far as the same might have been varied or altered by any act or acts in force (q).

This act not to affect jurisdiction of the Court of Exchequer.

On 31st January, 1843, an order was made by the Lord Chief Baron and other judges of the Court of Exchequer, pursuant to statute of 5 & 6 Vict. c. 86, directing that the several fees mentioned and set forth, or referred to in the schedule thereunder

(o) 5 & 6 Vict. c. 86, s. 8.

(p) *Ib.* s. 9.

(q) *Ib.* s. 10.

Note on the Queen's Remembrancer's Office.

written, might be received and taken by attornies practising on the revenue side of that court, and the same are to be allowed to them on taxation of the costs as and from the 1st day of January, 1843 (r).

The Schedule of Fees above referred to. £ s. d.

1. For instructions to prosecute by information or to defend 0 6 8
2. For instructions in other matters .. 0 6 8
3. For præcipe and attendance at the Queen's Remembrancer's Office for all writs 0 6 8
4. The like for entering appearances .. 0 6 8
5. And for all other necessary and proper attendances at the same office in the furtherance of the business of the suit at the discretion of the remembrancer.. .. 0 6 8
6. For drawing informations and all pleadings, exclusive of fees paid to counsel for settling same at per folio of seventy-two words .. 0 1 0
7. For copies and engrossments of all informations and pleadings at per folio 0 0 4
8. For copies of all rules or orders to serve if under five folios 0 3 4
9. And for every additional folio .. 0 0 4
10. For service for same on adverse attorney 0 3 4
11. If on party and requiring personal service 0 6 8
12. And if the party or attorney resides any distance beyond three miles from the office of the Queen's Remembrancer, then 1s. per mile extra for such services.
If more than ten miles, then 3s. 6d. to be allowed for the letter, and a charge for agency.
13. For copy and service of each war-

(r) *Dax's New Book of Costs*, 1847, pp. 387, 388.

	rant or summons on adverse at-	£	s.	d.
	torney	0	3	4
14.	The like on party if personal service required	0	6	8
15.	And if resident beyond three miles from the Queen's Remembrancer's Office then 1s. per mile extra, and if more than ten miles, then 3s. 6d. to be allowed by the letter and a charge for agency.			

For each and every term the proceedings shall continue, and in which some steps shall be taken in the furtherance thereof 0 10 0

And for letters and messages in like manner each term 0 5 0

And as regards all other fees and charges to be made by attornies, they are to be of the same amount and character, and regulated by the practice of the Queen's Remembrancer's Office, and the rules and orders of the Court of Exchequer on the plea side in regard to costs (s).

Parties liable to legacy or succession duties will do well to bear in mind the consequences to which they expose themselves by becoming debtors to the Crown, or rather to the Revenue, whose officers prosecute the claims, when once commenced, with unmitigated severity.

An extent, or *extendi facias*, is an ancient prerogative writ of execution, issuing out of the Exchequer against a crown debtor, commanding the arrest of his body, and the inquisition, appraisalment and seizure of his lands and goods, and founded upon

(s) Another Table of Fees to be received in the Queen's remembrancer's office was made on the 31st January, 1843, pursuant to the stat. 5 & 6 Vict. c. 86, which it is unnecessary to add for the purchasers of this work; see Dax, pp. 383—386. See Table of Fees under Common Law Procedure Act, 1852, by Morris and Finlason, pp. 512—516; Table of Fees, 2 Arch. Pr. by Chitty, 1273—1288, 7th ed.; Id., 2 vol. 1529—1542, 8th ed.; Gray on Costs, 553—574. The existing Scale of Costs, as settled by the Judges, was made in Hil. T. 1853.

the common law, and so far as its present form and application are concerned, on the stat. 33 Hen. 8, c. 39. The writ may be issued for every description of debt or duty due to the crown, whether on judgment, bond, simple contract or otherwise, and for every duty which would form the subject for an action of debt, or which might be recovered by the crown as liquidated damages in an action of covenant or *assumpsit*(*t*). And it may issue for debts not at the time strictly due as duties which have been charged but are not actually payable(*u*); or for money for which bills have been drawn or accepted, but the time for payment of which has not arrived(*x*).

(*t*) Mann. 13; and see *Rex v. Wrangham*, 1 Cr. & Jerv. 408; 1 Tyr. 383.

(*u*) *Rex v. Williams*, 3 Price, 75.

(*x*) *Rex v. Bebb*, Hughes, 115; Mann. 18; Bateman's Excise Laws, 1843, p. 136, n. On process and pleading in the office of the Remembrancer, see Price's Pr. of the Exch., 1830, pp. 491 et seq.; West on Extents, 1817; Howard on the Duties of Solicitors on the Sale of Estates in the Remembrancer's Office, 1827.

See Act for the better Protection of Purchasers against Judgments, Crown Debts and *Lis pendens*, 2 & 3 Vict. c. 11; Shelford's Real Property Stat. pp. 518—527, 5th ed. See also 18 Vict. c. 15, an Act for the better Protection against (*inter alia*) Crown Debts (26th April, 1855).

INDEX.

A.

.BATEMENT,

Of instalments of legacy duty unpaid in case of determination of annuities, 90, 92.

The like, in respect of succession duty upon death, 230, 261.

ABROAD,

Property in England of foreigner domiciled, not liable to legacy duty, 179.

Personal property, of a testator domiciled in England liable to legacy duty, 182.

See INDIA.

ABSENTEES,

Legacies and shares of residue belonging to, may be paid into the bank of England, 114.

See ACCOUNTANT-GENERAL.

ACCELERATION,

Of title, by surrender, &c. of prior interest, its effect upon payment of duty, 222, 258.

ACCOUNT,

Of property liable to succession duty, to be delivered to the commissioners, when, 273.

Particulars to be contained in, *ib.*

Duty may be assessed on footing of, *ib.*

May be ordered to be taken by commissioners, *ib.*

Expenses of taking, by whom payable, *ib.*

Penalty for not delivering, 274.

Of value of manors, mines, &c. how to be made, 262.

Delivery of, may be compelled by writ of summons, 274.

Form of writ of summons, 275.

To be verified by production of books, &c., 276.

Course of proceeding for compelling parties to render an, 350.

ACCOUNTANT-GENERAL,

In case of infancy or absence beyond seas legacies paid into bank to be laid out in 3*l.* per cents. by, 115.

Payment of money into the name of, when a sufficient appropriation of a legacy, 173.

ACCOUNTANT-GENERAL—continued.

General order as to payment of duties by, in administration suit, 245.

Form of certificate of, 361.

ACTS,

Meaning of the words "Legacy Duty Acts," 248.

The several provisions of, 80, 127.

ADDITIONAL,

Payment of probate and administration duties provided for, 50—57.

ADMINISTRATION,

Course of proceeding for obtaining letters of, 9.

To whom granted, *ib.*

Caveat may be entered against grant of, 12.

Suits to recall, *ib.*

Penalty for not taking letters of, 13.

Letters of, not to be granted without affidavit of value of effects, 14.

Form of such affidavit, 15.

Account of letters of, to be transmitted to Commissioners of Inland Revenue, 17.

Table of duties on letters of, 20, 21.

Jurisdiction to grant, by what regulated, 2.

By what court to be granted in respect of shares in public companies, 4.

Grant of, when void, 5.

When necessary as to property out of jurisdiction, 29—32.

If made void, the duty improperly paid to be repaid or allowed in account, 121.

Duty on, not payable for tolls of lighthouse, 38.

Payable in respect of mortgage debt not merged, 146.

See PROBATE DUTY.

ADMINISTRATION SUIT,

Court to provide for payment of duty in, 245.

Lord Chancellor's order respecting payment of duties in, *ib.*

ADMINISTRATION DE BONIS NON,

Provision in the case of, taken out before payment of the duty for which credit shall be given, 63.

Exemplification of letters of, how to be stamped, *ib.*

ADMINISTRATOR,

Included in the term "trustee" in Succession Duty Act, 248.

Legacy duty to be paid by, on retaining or paying shares of residue, 86.

Accounts to be delivered by, under Succession Duty Act, 275.

See EXECUTORS—TRUSTEE.

ADVOWSON,

Not liable to succession duty, 211, 263.

Money arising from disposal of, subject to succession duty, *ib.*

AFFIDAVITS,

To be sworn on proving will or taking out letters of administration, 7, 14.

Forms of, by executors, 8, 15.

By administrators, 10, 15.

To be free from stamp duty and transmitted to Commissioners of Inland Revenue, 16.

May be required respecting property alleged to be held in trust, 43.

Particulars to be stated in, 45.

Form of, for obtaining return of duty on probates and administrations on which too much duty was paid, 58.

Relating to stamp duties in absence of express provision to be made before commissioners, &c., 65.

Persons making false, punishable for perjury, 66.

Directions as to, by executors residing out of England, relating to trust property, 46.

Form of, when too little duty paid on probate or administration, 55.

Form of, for obtaining return of probate duty on ground of debts of the deceased, 71—73.

ALLOWANCE,

Of necessary outgoings in valuation of lands, 228, 262.

Of fines, reliefs, or charges incident to tenure of real property, 228, 264.

To donee of general power of appointment, 219, 266.

To be made for incumbrances, 228, 267.

Not to be made for contingent incumbrances unless they take effect, 229, 268.

Not to be made for contingencies until they happen, *ib.*

To be made to successor for relinquished property, 229, 269.

To be made in assessing personal property to succession duty, 238.

ANNUITY,

Gifts by way of, to be deemed legacies liable to duty, 83.

Value to be calculated according to tables, and duty paid by four instalments, 89.

Provisions for abatement of duty in case of determination of, 90.

Value of, payable out of legacies to be calculated according to tables, and the duty to be charged on value of legacies after deducting, 91.

Duty on legacies given to purchase, to be calculated on the sums necessary to purchase, 92.

Stamped receipts for, not required, but on completing payments of the first four years, 109.

By way of rent-charge subject to legacy duty, 152.

Exempted from legacy duty by direction to pay "without deduction," 195, 196.

ANNUITY—continued.

Exempted from duty by the word "clear" taken in connection with the context of a will, 197.

By the words "clear of all deductions whatsoever," 198.

When not exempted by the word "clear," 199.

Given by will exempted from duty, when, 204.

Nature of annuity charged on person of grantor only, 210.

Form of receipt to be signed on payment of legacy duty on, 355.

On payment of succession duty on, 358.

Distinction between, and rent-charge, 210.

When real and when personal estate, *ib.*

Will pass to executors, when, *ib.*

Table for valuing an annuity of 100*l.* on a single life, 279.

Held on the joint continuance of two lives, 281.

For any number of years not exceeding 95 years, 346.

Rules for inferring the value of an annuity of 100*l.* held on lives, 348.

See LEGACY DUTY—RENT-CHARGE—RULES.

APPEAL,

Power of, given to party accountable for succession duty, 241, 277.

To the County Court in England, or the Assistant Barrister's Court in Ireland, when duty does not exceed 50*l.*, *ib.*

Notice of, to be given to the commissioners, 277.

Statement of grounds of, to be furnished, *ib.*

Form of statement of grounds of, 364.

Form of petition of, 362.

For an allowance for property relinquished under the 38th section of the Succession Duty Act, 1853..366.

May be heard by judge at chambers, 277.

APPOINTMENT,

Probate duty not payable on property disposed of, in execution of power of, 34.

Duty on legacies subject to power of, how to be charged, 99.

Legacies given in execution of powers of, liable to duty, 135.

What is a general power of, notwithstanding exclusion of certain persons, 136—139.

Of rent-charges under power liable to legacy duty, 155.

In lieu of dower liable to legacy duty, 158, 161.

When succession is conferred by general power of, 218.

Allowance to be made to donee of general power of, 219.

What is meant by a general power of, *ib.*

When succession is conferred by a limited power of, *ib.*

ASSESSMENT,

Of real and personal property to succession duty, 239.

Parties accountable to give notice to commissioners with certain particulars, *ib.*, 273.

May be separate in respect of separate properties, 240.

See ACCOUNT—EXCHEQUER (COURT OF).

ASSETS,

Whether stamp on probate be evidence of, 66, 67.

Heir or devisee not to claim payment of mortgage out of personal assets, 268.

ATTACHMENT,

Form of writ of, for disobeying writ of summons to account for duties, 275.

ATTORNEY-GENERAL,

When not entitled to costs, 246.

Proceedings for recovery of duties to be in the name of, 254.

May recover duties by information, 255.

Penalty for non-delivery of account of wills and administrations, 17.

See INFORMATION.

ATTORNIES,

Of Queen's Bench, &c. to practise on revenue side of the Court of Exchequer, 372.

B.

BANK OF ENGLAND,

May pay dividends of stocks standing in name of party alleged to be a trustee when, 43.

May transfer such stock without regard to amount of probate duty, *ib.*

Special affidavit of the circumstances of the case may be required by, 45.

BODY CORPORATE,

When liable to succession duty, 264.

Certain legacies to, exempted from legacy duty, 83, n. (y)

Certain gifts to, exempted from succession duty, 226, 259.

BONA NOTABILIA,

What give jurisdiction to archbishop, 2.

What are, 4, 25.

BOND,

Administrator required to enter into, 10.

Form of, 10, 11.

Post obit, succession duty when and when not payable for, 212, 258.

BOOK,

Entry of payment of succession duty to be made in, by commissioners, 277.

BOOKS AND DOCUMENTS,

Production of, for verifying accounts, 276.

BUILDINGS,

In valuation of, all necessary outgoings to be allowed, 228,
262.

C.**CASUALTIES OF SUPERIORITY,**

Deduction to be made in respect of, 264.

CAVEAT,

Against grant of probate or letters of administration, 12.

CERTIFICATES,

May be granted by commissioners as to separate assessments,
271.

Of payment of succession duty to be delivered to party af-
fected, 277.

To exonerate purchasers without notice, 278.

Of the Accountant-General, form of, 361.

CHANCERY (COURT OF),

Order for payment of money when made by, 3.

The effect of improper stamps on probates, &c. in suits in,
57, 58.

May order payment of legacies for infants paid into the bank,
115.

May dispose of money improperly paid into bank, 115.

May order repayment of duty, when, 116.

Order of the Court of, as to the payment of legacy and succes-
sion duty, 245.

CHANCERY ABSTRACT,

When substituted for residuary account, 359, n. (a)

Form of, 359.

CHARGES DETERMINABLE ON DEATH,

When duty payable on, 241, 257, 260, 267.

CHARITABLE GIFTS,

When and where not liable to legacy duty, 163—165.

Succession duty payable in respect of, 166.

Succession subject to, chargeable with duty, 258.

See PUBLIC PURPOSES.

CHURCH PATRONAGE. See ADVOWSON.**COMMENCEMENT,**

Of Succession Duty Act, 19th May, 1853..278.

Of the act altering the law as to payment of mortgages out of
personal estate, 268.

COMMISSIONERS OF INLAND REVENUE,

Affidavit of value of effects to be transmitted to, 16.

Account of wills and administrations to be delivered to, 17.

May give credit for duty on probates and letters of administra-
tion in certain cases, 60.

COMMISSIONERS OF INLAND REVENUE—*continued.*

- May extend such credit if necessary, 62.
- May cancel useless probates and letters of administration and allow stamps, 64.
- Affidavits relating to stamp duties may be made before, when, 65.
- May return stamp duty on probates, &c. on ground of debts of deceased, 68.
- Legacy duties placed under management of, 85.
- To appoint receivers of legacy duties, and to keep accounts of estates, 85.
- May stamp receipts for legacies brought after three months from the date on payment of duty and penalty, and may remit penalty if signed out of Great Britain, 113.
- May compound duty at end of two years, when time required for collecting effects, &c., 117.
- Succession duty placed under the care and management of, 224, 253.
- To have all the powers formerly vested in commissioners of excise and taxes, 253, n. (g)
- Powers given to, may be exercised by any three or more of, 254, n.
- Are substituted in all acts of parliament bonds, &c., for commissioners of stamps and taxes, &c., *ib.*
- May give part of penalty to informer, when, 254, n.
- Proceedings for the recovery of penalties incurred under act relating to duties may be stayed by, 255.
- May compound succession duties in certain cases, 269.
- May receive duty in advance, 270.
- May commute future duties, *ib.*
- When to make separate assessments of separate properties, 271.
- May grant certificate as to separate assessment, *ib.*
- Successor to give notice to, containing certain particulars, 273.
- If dissatisfied with account delivered, may direct another to be taken, *ib.*
- Provision as to payment of costs attending new estimate, *ib.*
- Such costs when to be in discretion of court of appeal, *ib.*
- May sue out summons for compelling parties to account, 274.
- The like for the purposes of the legacy duty acts, 275.
- Books and documents to be produced before, 276.
- May inspect and copy public books, *ib.*
- Information given to, is to be deemed confidential, *ib.*
- Appeal against the decision of, 277.
- To deliver to party interested in property certificate of payment of duty, *ib.*

See APPRAL.

COMMITTEE OF LUNATIC,

- Liable to payment of succession duty, 272.
- May compound or commute such duty, *ib.*

COMPANY,

Payment of dividends and transfer of trust property by, 43, 44.

See BANK OF ENGLAND—BODY CORPORATE—TRUST PROPERTY.

COMPOSITIONS,

Deductions to be made for, in valuing real estate, 264.

COMPOUNDING,

Legacy duty after two years, when further time is required to collect the effects, &c., 117.

Of succession duty, when, 241, 242, 246, 270.

CONTINGENCIES,

Duty on legacies subject to, to be charged as for absolute bequests, 98.

CONTRACT,

Relation of predecessor and successor when not created by, 268.

Money payable under, when liable to succession duty, 259.

The like as to policies of insurance and post obit bonds, *ib.*

COPARCENERS,

Nature of estate of, 217.

No survivorship takes place between, *ib.*

COPY,

Of entry in books of commissioners admissible as evidence of payment of legacy duty, 109.

To be proved by affidavit of examination, *ib.*, 109, n.

COPPICE,

Excepted from provision as to timber, 252.

COPYHOLDS,

Allowance to be made in valuation of, for fines and reliefs, 264.

CORPORATIONS AGGREGATE,

Certain legacies to, exempted from legacy duty, 83, n. (y)

Succession duty payable by, on becoming entitled to real property, 264.

May raise amount of succession duty by mortgage, *ib.*

COSTS,

If legatees refuse to receive legacies, duty deducted, the court, in case of suit, may order them to pay, 105.

Of appeal against commissioners' assessment, 273, 274.

To be taken in the Queen's Remembrancer's Office, to be settled by Barons of Exchequer, 371.

Table of, made by order of Barons of Exchequer, 373.

When to be according to rules, on the plea side of Exchequer, 375.

COSTS—continued.

Of actions, &c. for recovery of duties, debts and penalties by the crown, 255, n.

Of rules calling upon executors to account for legacy duties, Addenda.

COUNTY COURTS,

In England, to have jurisdiction to hear appeal against commissioners' assessment, when, 277.

See **APPEAL.**

CREDIT,

May be given by commissioners for duty on probates and letters of administration, 60.

May be extended by commissioners if necessary, 62.

Probate and letters of administration stamped on credit, to be deposited with the commissioners, *ib.*

Duty for which credit is given, a debt to the crown, *ib.*

Provision in the case of letters of administration *de bonis non*, taken out before payment of the duty, for which credit shall be given, 63.

CURATOR,

Answerable for payment of succession duty, 272.

May compound or commute such duty, *ib.*

May raise duty on mortgage of property chargeable, *ib.*

Will become a debtor to the Crown for non-payment of duty, *ib.*

D.**DEATH,**

Persons becoming entitled to a succession upon, after 19th

May, 1853, to pay succession duty, 209, 211, 248, 249.

Effect of, upon payment of instalments under Legacy Duty Acts, 90, 91.

Under Succession Duty Act, 231, 235, 261.

See **INSTALMENTS—SUCCESSION DUTY.**

DEBT TO CROWN,

When incurred in respect of probate duty, 62.

Of legacy duty, 88, 96.

Of succession duty, 271, 272.

May be recovered by information, 255.

Writ of extent for the recovery of, 375.

DEBTS,

Due from deceased, not to be deducted in valuing effects of the deceased, 14.

If doubtful, need not be included in valuation of property, 22.

Forgiveness of, by testator constitutes a legacy subject to duty, 169.

Provisions for obtaining return of probate and administration duty on the ground of payment of, owing by deceased, 68—79.

T

DEDUCTIONS. See ALLOWANCES.**DENOTING STAMP,**

To be provided for marking probate of wills and letters of administration relating to any estate in respect whereof probate, &c. shall have been previously granted, 64.

DEEDS OF GIFT,

When and where not legacy duty was formerly payable under, 132, 133.

Succession duty payable under, taking effect upon death, 220, 252.

DEFINITION OF TERMS. See WORDS.**DERIVATIVE TITLE,**

Amount of succession duty payable under, 255.

DEVISEE,

Not to claim payment of mortgage debt out of personal assets, 267, 268.

Of real estate liable to payment of legacy duty, 125.

DISTRIBUTORS OF STAMPS,

When duties may be paid to, 352.

DISCOUNT,

May be allowed in respect of succession duty paid in advance, 270.

DOMICILE,

Succession to personal property regulated by, 176.

Liability to legacy duty as to property abroad depends upon fact of testator's, 181.

By what means it may be changed, 189.

Every person is assumed to have a, 190.

Of British subject not changed by service by the Queen's command in foreign service, *ib.*

Acquired by an English officer in the service of the East India Company, 191.

Acquired in India, under what circumstances abandoned, *ib.*

When not acquired by Englishman residing in Italy, 192.

Not lost until a new one acquired, 193.

Under what circumstances not acquired by a British subject in France, *ib.*

DONATION MORTIS CAUSA,

Subject to legacy duty, 89, 126.

What may be the subject of, 127.

Subject to the donor's debts, 128.

Takes effect only in case of donor's death, *ib.*

What delivery of chattel necessary in case of, *ib.*

Certain gifts by way of, when and when not valid, 129.

DOUBLE DUTY,

Provision for marking probates and letters of administration to prevent payment of, 64.

DUTIES,

Amount of, payable on probate of wills, 18.

On letters of administration without will annexed, 20.

Probate and letters of administration, when exempted from, 21.

In case of intestate persons in Indian army, 21, n. (y)

Provision to prevent the evasion of, 252.

As to the management and amount of, 253.

For recovering payment of, 270.

As to the collection of, 271.

See LEGACY DUTY—PRIMATE DUTY—SUCCESSION DUTY.

DUTY,

On succession to be a first charge on estate, 270.

E.**ECCLESIASTICAL COURT,**

Jurisdiction of, in cases of testacy and intestacy, 1.

Proposal to abolish, 2, n.

Not to grant probate or letters of administration without affidavit of value of effects, 14.

ENTIRETIES,

Nature and incidents of an estate by, 216, 217.

ENTRY,

To be made in books kept by commissioners of payment of legacy duty, 85, 86.

The like as to payment of succession duty, 277.

ESTATES,

In real property liable to succession duty, 209, 210, 247.

ESTATES PUR AUTER VIE,

Applicable as personalty charged with legacy duty, 101.

How applicable under the Wills Act, 101, n. (i)

See LEASEHOLDS.

ESTIMATE. See ACCOUNT.**EXCHANGE,**

When succession duty to be charged substitutively on real estate taken in, 271.

EXPECTANCY,

Duties may be commuted in succession in, 270.

EVASION,

Of succession duty guarded against by special provision, 252.

EVIDENCE,

Probate or letters of administration not admissible, unless stamped for amount sought to be recovered, 57.

Stamp on probate not evidence of assets, 66.

Copy of entry at stamp office of payment of legacy duty to be, 109.

EXCHEQUER (COURT OF),

Writ of summons to be issued from, requiring party to deliver account of succession, 274.

Form of writ of summons framed by barons of Court of, 275.

Court of, or judge at chambers to determine appeal against assessment, 277.

Abolition of the equity side of the Court of, 369.

Equity jurisdiction of Court of, not taken away by 5 Vict. c. 5, s. 1..370.

Abolition of various offices in, *ib.*

Certain duties in, to be performed by the remembrancer, *ib.*

EXECUTORS,

Previous to retaining their legacies to transmit particulars with the duty offered to commissioners who shall charge same, 120.

Penalty for neglect of payment of duty for fourteen days, 120.

Legacy duties to be paid by, on retaining or paying legacies, 86.

Compellable by writ of summons to deliver accounts under legacy duty acts, 275.

Included in term "trustee" in succession duty act, 248.

Liable to account for succession duty, 272.

May compound and retain duty, *ib.*

May raise duty by mortgage of property, *ib.*

Making default in payment of duties will be crown debtors, *ib.*

To give notice of succession to commissioners, *ib.*

See ACCOUNT.

EXEMPLIFICATION,

Of letters of administration *de bonis non* how to be stamped, 63.

EXEMPTIONS,

From probate and administration duty, 21.

From payment of legacy duty, 83.

In the case of royal family and husband and wife, 85.

From succession duty, 225—227.

EXPENSES,

Of re-valuation of succession may be charged on property, 273.

If an appeal, in discretion of Court, *ib.*

See APPEAL.

EXTENT,

Nature of writ of, 375.

EXTINCTION OF INTERESTS OR CHARGES,

Succession, where conferred by, 251.

When party not liable to duty in respect of, 256, 257.

Effect of acceleration of title to, 258.

Before 19 May, 1853, not liable to succession duty, 259.

F.

FINE OR GRASSUM,

Succession duty, when payable for, 231, 263.

FINES,

Deductions to be made for, in valuation of real property, 264.

FINLAISON,

Government tables for calculating legacy and succession duties published by, 349.

FLUCTUATING INCOME,

Of certain real property, how to be charged with succession duty, 231, 263.

FOREIGN PROPERTY,

Probate duty payable on bonds of foreign states, being securities transferable in England, 24—28.

Belonging to testator domiciled in England, liable to legacy duty, 182.

When not liable to probate or administration duty, 22, 23.

FOREIGNER,

Legacy duty not payable on property belonging to foreigner domiciled abroad, 179.

FORMS. See *AFFIDAVITS—WRITS—TABLE OF CONTENTS XVI.*

FRAUDULENT DISPOSITION,

The effect of a declaration of, by a competent court, 252, 253.

FREEHOLD,

Included in the term "real property," 247.

Liable to succession duty, 209, 248.

FRIENDLY SOCIETIES,

Deposit and interest not exceeding 50*l.*, where will, &c. not proved within a month, may be paid to widow, &c., 48.

Payment of sums not exceeding 50*l.* may be made to intestate members of, when, 49.

FURNITURE,

Given, to be enjoyed in succession, not liable to legacy duty, until possessed by persons having power of disposition, 96.

The like as to succession duty, 237.

G.

GUARDIAN,

Answerable for payment of succession duty, 272.

May compound or commute such duty, *ib.*

May raise succession duty by mortgage, *ib.*

Becomes a crown debtor by non-payment of duties, *ib.*

To give notice of succession to commissioners, *ib.*, 273.

H.

HEIR,

Not to claim payment of mortgage debt out of personal assets, 267, 268.

HEREDITAMENTS.

Whether corporeal or incorporeal in England and Ireland, included in term "real property," 247.

See INCORPOREAL HEREDITAMENTS.

HERITABLE PROPERTY,

Included in term "real property," except money secured on, in Scotland, 247, 248.

HOUSES,

In valuation of, allowance to be made for all necessary outgoings, 226, 262.

HUSBAND,

When entitled to administration of effects of his deceased wife, 9.
Exempt from legacy duty as to property derived from wife, 83, 85.

The like as to succession duty, 225, 259.

Liable to payment of succession duty, when, 272.

May compound or commute such duty, *ib.*

May charge succession duty on property liable thereto, *ib.*

Not paying such duty will be debtors to the crown, *ib.*

I.

IMPROVEMENT,

Of real property, when allowance made to successor for, 228, 267.

INCORPOREAL HEREDITAMENTS,

Included in term real property, 209.

Yielding an annual profit, subject to succession duty, 210.

Enumeration of different kinds of, *ib.*

What allowances to be made in respect of, 228.

See ADVOWSON—ANNUITY—RENT-CHARGE—TOLLS.

INCUMBRANCE,

Allowance in valuation, when to be made for, 267.

Interest only of, when to be allowed, *ib.*

Contingent, not taking effect not allowed for, 268.

INDIA,

Law of, as to making wills assimilated to English law, 179.

Property of British subjects in, not liable to legacy duty, 179.

Legacy duty not payable on property remitted from, to England, 180.

Legacies bequeathed by a British subject in, when liable to legacy duty, 161.

INDIA—continued.

- Personal assets in, of testator domiciled in, remitted to England not liable to legacy duty, 183.
- The assets of British subject domiciled in, and remitted to England to pay legacies there not liable to legacy duty, 185.
- Property in, belonging to a British subject domiciled in England subject to legacy duty, 188.
- Acquired domicile in, under what circumstances abandoned, 191.

INFANT.

- Provisions for payment of legacy or share of residue of, into Bank of England, 144.
- Summons for payment of legacy of, on majority out of Court may be made, *Addenda*.

INFORMATION,

- Penalty for not sending particulars of wills, &c. to commissioners recoverable by, 17.
- Duties recoverable by, 255.
- For recovery of fine, penalty or forfeiture, to be in the name of Attorney-General or in the name of other officer, 254.
- Costs, when recoverable in proceedings by, *ib.* 255.
- See* ATTORNEY-GENERAL—COSTS.

INLAND REVENUE. *See* COMMISSIONERS OF.

INNS OF COURT,

- Bequests of certain articles to, when exempt from legacy duty, 83, n.
- The like as to succession duty, 226, 259.

INQUIRY,

- As to value of property may be ordered by Court of Appeal, 277.

INSTALMENTS,

- Of legacy duty for annuities payable by yearly, 89, 90, 91.
- The like as to succession duty, *ib.*, 235, 237.
- When to cease on death of party before payment of all, 90, 91.
- The like as to succession duty, 235.
- Of succession duty in respect of real estate to be paid in eight half-yearly, 229, 230, 261.
- Not paid at death of successor when to determine, 231, 261.
- Corporation to pay succession duty by, 232, 264.

INSURANCE,

- Monies payable under, when and when not liable to succession duty, 212, 258, 259.

INTEREST,

- On legacy liable to duty as well as the principal legacy, 166.
- Legacy duty payable on the aggregate amount of capital and interest received by legatee, 167.
- Only of incumbrance when to be allowed to successor, 267.

INTESTACY,

Course of proceeding in Ecclesiastical Court for obtaining letters of administration in case of, 9, 12.

INVESTMENT,

In real estate, monies subject to trust for, how chargeable with duty, 265, 271.

IRELAND,

Succession Duty Act applicable to property in, 247, 248.

Summons for delivery of account may be issued from Court of Exchequer in, 274.

Court of Exchequer in, may determine appeal against commissioners' assessment, 277.

Appeal against assessment of succession duty in, not exceeding 50*l.*, to Assistant Barrister's Court in, 277.

Exemption in favour of charitable institutions in, 226.

J.**JOINT TENANCY,**

Duty on legacies given in, to be paid in proportion to the interest of the parties, 97.

Duty payable on survivorship or severance of, 98.

Creation of estate in, 213.

Survivorship incident to an estate in, *ib.*

When there is no survivorship in equity as to estates in, *ib.* 214.

Survivorship takes place in gifts of personalty in, *ib.*, 215.

Estate in when and when not created by devises, 215, 216.

JOINT TENANTS,

Taking by survivorship when to be deemed successors, 212, 249.

JOINT PREDECESSORS,

Provision as to payment of duty in case of, 257.

L.**LAND TAX (COMMISSIONERS OF),**

May in certain cases review valuation of Commissioners of Inland Revenue as to property not reduced into money, 102, 103.

LEASEHOLDS,

To be included in affidavit of value of effects of deceased, 14, 15.

Included in term "real property" in the Succession Duty Act, 209, 247.

After 19th May, 1853, not to be chargeable with legacy duty, 259, 260.

LEASES,

Succession duty not payable upon determination of lease at rack rent, 260.

Persons entitled to real property subject to, on 19th May, 1853, not liable to duty, 251.

Succession duty when payable in respect of fines on renewal of, 263.

LEGACY,

What to be deemed within, the Legacy Duty Acts, 88, 124, 126.

Value of, given by way of annuity, to be calculated according to tables, and duty paid by four instalments, 89.

If refunded the duty to be repaid, 119.

When payable free from legacy duty by the terms of the will, 195.

Exempted from duty by a direction to pay "without deduction," and other expressions, 195, 196.

Of stock when and when not exempted from legacy duty, 201.

Given by codicil in lieu of one given by will subject to same incidents, 201.

Substituted, to be raised out of same fund as original, 202.

Cases of substituted legacies being exempted from duty, *ib.*

When not substitutive, *ib.*

Given by codicil, held to be exempted from duty, 203.

When not so exempted, 204.

LEGACY DUTY,

Amount of, where testator or intestate died before 5th April, 1805.. 80.

After 5th April, 1805..81.

Exemptions from, 83.

In case of husband and wife and royal family, 83, 85.

In case of gifts of certain articles to corporate bodies and societies, 83.

How imposed, 84.

To be under the management of Commissioners of Inland Revenue, 85.

To be paid by executors or administrators on retaining or paying legacies, 86.

If not paid before retainer the amount a debt from the executors, 87.

If not deducted by executors, to be debt from them and other parties, 87.

What are to be deemed legacies, 88, 124, 126.

On legacies given by way of annuity, 89—91.

On legacies whose value can only be ascertained by application of the allotted fund, to be charged on the money as applied, 92.

On legacies enjoyed by persons in succession or having partial interests therein, how to be charged, 93.

By whom payable, 94.

On plate and articles enjoyed in kind not liable to duty until possessed by persons having power to dispose thereof, 96.

LEGACY DUTY—continued.

- On legacies enjoyed in succession to be charged as such, whether taken under wills or by intestacy, 97.
- On legacies in joint tenancy to be paid in proportion to parties' interest, 97.
- On legacies subject to contingencies, to be charged as for absolute bequests, 98.
- On legacies subjected to power of appointment, how to be charged, 99.
- On personal estates directed to be applied in the purchase of real estates, 100.
- On estates *pur autre vie* applicable as personalty, 101.
- On property not reduced into money, how to be ascertained, 102.
- On legacies not satisfied in money, &c. to be paid according to the value of the satisfaction, 105.
- If suit for administration be instituted the court to provide for payment of, 107, 246.
- Upon legacies given in execution of powers of appointment, 135.
- Not payable for tolls of lighthouse, 139.
- On monies arising from sale of real estate, *ib.*
- On legacies payable out of a fund to be raised from sale of real estate under a previous deed, 143.
- In respect of mortgage debt not merged, 146.
- Not payable for produce of estates sold under powers, to be again invested in land, 146.
- In respect of real estate sold under decree of Court of Chancery, 149.
- On rent-charge annuity, 152.
- Not payable for annual sums for maintenance of infants during minority, 163.
- For rent-charges appointed under power, 156.
- In lieu of dower, 158—161.
- In respect of charitable gifts, 163—165.
- Payable on interest as well as principal of legacy, 166—169.
- Debts forgiven by testator liable to, 169.
- Amount of, in case of a legacy to husband and wife, one of whom is a child of the testator and the other a stranger, 170.
- New rule applicable to legacies bequeathed by testator dying after 19th May, 1853.. 171.
- Not payable on property in this country of foreigner domiciled abroad, 179.
- When legacies are exempted from, by the the terms of a will, 195.
- When payable out of the residuary estate, 199.
- When payable out of specific fund by terms of the will, 200.

See **LEGACY.****LEGACY DUTY ACTS,**

- What denoted by the term of, 248.
- The several provisions of, 84—127.
- Construction of, 130—208.

LEGACY DUTY ACTS—continued.

Certain sections of 36 Geo. 3, c. 52, applicable to the assessment of personal estate to succession duty, 266.

Parties charged with duty under, not to be liable also to succession duty, 226, 269.

LEGACY RECEIPTS,

Instructions for filling up forms of, 354.

In case of absolute pecuniary legacy, *ib.*

In the case of an annuity charged on real estate, 355.

LETTERS (CIRCULAR),

Sent by commissioners to parties accountable for duties, 350.

Accountable parties advised to pay duties, although commissioners do not send, 351.

LIGHTHOUSE,

Neither probate nor legacy duty payable for tolls of, 38, 139.

M.**MAINTENANCE,**

Annual sums given for infant's, during minority, when not subject to legacy duty, 153.

MANORS,

Value of, to be calculated upon an average, 262.

MARRIED WOMEN. See HUSBAND—WIFE.**MISTAKE,**

In payment of probate, how to be rectified, 50—65.

Duty paid by, when to be repaid, 268.

See PROBATE DUTY—RETURN.

MONEY,

Directed to be applied in purchase of real estate, how charged with legacy duty, 100.

Given, to pay legacy duty not chargeable as a legacy, 101, 225.

The like as to succession duty, 225, 259.

Arising from sale of real estate, how chargeable with succession duty, 264, 265.

MORTGAGE,

May be made by trustees and others filling fiduciary characters to secure succession duty, 272.

Upon charity property, 258.

By corporations, &c., taking real estates, 264.

Until recently, payable out of personal estate, 367, *n.*

Under deeds or wills made after 1st January, 1855, not payable out of personal estate, *ib.*, 268.

See ADMINISTRATOR—ALLOWANCES—BOND—CHARGE—INCUMBRANCES—PRIORITY.

N.

NEXT OF KIN,

In what order of relationship entitled to administration, 9.

NOTICE,

To be given of appeal against assessment of commissioners, 277.

By parties accountable for duty to commissioners or their officers of liability, 273.

Penalty for not giving notice of succession, 274.

O.

OUTGOINGS,

To be allowed in the valuation of lands, houses, &c., for succession duty, 262.

P.

PARLIAMENTARY STOCKS. See **BANK OF ENGLAND — TRUST PROPERTY.****PARTITION,**

When succession duty to be charged substitutively on real estate taken on, 271.

PARTNERSHIP PROPERTY,

Consisting of real estate, not liable to probate duty, 41.

PENALTY,

For not proving will or taking letters of administration, 13.

On registrar, for not transmitting affidavit to stamp office, 16.

For not delivering an account of wills and administrations, 17.

Imposed by former stamp acts continued, 21.

For false oaths respecting trust property, 46.

On executors and administrators not paying full probate duty, 57.

For paying or receiving legacy without stamped receipts, 109.

May be remitted in respect of receipts for legacies signed out of Great Britain, 113.

On executors for neglecting to pay duty within fourteen days, 120.

For altering legacy receipts, 122.

Part of, may be given by Commissioners of Inland Revenue to informer, 254, n.

How recoverable under stat. 12 & 13 Vict. c. 1..254, n.

Proceedings for recovery of, may be stayed by Commissioners of Inland Revenue, 255.

For not giving notice of succession, 274.

For omitting to pay succession duty, *ib.*

PERJURY,

- False oaths respecting trust property to be, 46.
- Stamp duties to be, 66.
- Legacy duties to be, 122.

PERSON,

- The word to include a corporation, company and society, 248.

PERSONAL PROPERTY,

- Directed to be invested in the purchase of real estate, how chargeable with legacy duty, 100.
- With succession duty, 265.
- Succession to, regulated by domicile, 176.
- Distribution of, regulated by deceased's domicile, 177.
- Validity of will of, governed by testator's domicile, *ib.*
- The term "personal property" includes money payable under an engagement, 210.
- See REAL ESTATE—SUCCESSION DUTY.*

PETITION,

- Forms of, of appeal against assessment of commissioners, 362, 366.
- See APPEAL—ASSESSMENT.*

PLATE,

- While enjoyed in kind not liable to legacy duty until possessed by persons having power to dispose thereof, 96.
- The like as to succession duty, 237.

POLICY OF INSURANCE,

- Relation of predecessor and successor not created by, 258.
- Money payable under, when to be liable to succession duty, 259.
- The like as to post obit bonds and contracts, *ib.*, *ib.*

POWERS OF APPOINTMENT. *See APPOINTMENT.*

POWER OF SALE, EXCHANGE, OR PARTITION,

- Exercisable with consent of successor, notwithstanding charge of duty, 271.

PREDECESSOR,

- Meaning of the term in Succession Duty Act, 249.
- In the case of joint tenants, *ib.*
- How chargeable with succession duty when successor also, 256.
- Provision applicable to the case of joint predecessors, 257.
- See JOINT TENANCY—JOINT TENANTS.*

PRESENTATION,

- Right of, not charged with succession duty, 263.
- See ADVOWSON.]*

PRIORITY,

Succession duty to have, over other interest of successor, when, 270.

Security for succession duty to have, over successor's incumbrances, 272.

See MORTGAGE—INCUMBRANCES.

PROBATE,

Jurisdiction to grant, by what regulated, 2.

In respect of shares in public companies, 5.

When void, 5.

Course of proceeding for obtaining, 6.

Form of, 7.

Caveat may be entered against grant of, 12.

Suits to recall, 12.

Penalty for not obtaining, 13.

Not to be granted without affidavit of value of effects, 14.

Form of affidavit, 15.

Account of grant of, to be transmitted to Commissioners of Inland Revenue, 17.

Table of duties payable upon, 18.

When necessary for administration of property out of jurisdiction, 29—32.

Not evidence unless stamped for amount sought to be recovered, 57.

Proceedings stayed until proper stamp upon, is obtained, 58.

Stamp on, not evidence of assets, 66.

See DUTIES.

PROBATE DUTY,

Amount of duties, 18—21.

Exemptions therefrom, 21.

Penalty for not proving wills or taking letters, 13.

Ecclesiastical Court not to grant probate or letters without affidavit of value, 14.

See AFFIDAVITS.

What property to be included in value sworn to, 22.

To be regulated by value of assets within jurisdiction of Ecclesiastical Court, 23.

Not payable on assets abroad, 23.

Payable on bonds of foreign states transferable in England, 24.

Payable irrespective of domicile of deceased, 28.

Not payable on execution of general power by will, 34.

Not payable for profits of tolls of lighthouse, 38.

Payable in respect of mortgage debt not merged, 146.

Not payable in respect of land directed to be converted into money, 38.

Nor on share of deceased partner in real estates of partnership, 41.

Exemption of trust property from, *ib.*

Provisions respecting trust property, 42—46.

Probates, &c. valid as to trust property, though not covered by stamp, 42.

PROBATE DUTY—continued.

- Affidavit by executor as to trust, 43.
- Savings banks and friendly societies, 47—49.
- Provision where too high duty has been paid, 50.
- Where too little duty has been paid, 51.
- Regulations to be observed in case of too high or too little duty having been paid, 52.
- Probate or letters improperly stamped not admissible in evidence, 57.
- Ecclesiastical Courts not to take surrenders of probates, &c. on ground only of wrong stamps, 60.
- Credit for, may be given by commissioners in certain cases, 60.
- May be extended if necessary, 62.
- Probates and letters stamped on credit to deposited with commissioners, *ib.*
- For which credit is given, to be a debt to the Crown, *ib.*
- Case of letters *de bonis non* taken out before payment of, for which credit shall be given, 63.
- Allowance for, in case of cancellation of useless probate or letters, 64.
- Denoting stamp for probates and letters before taken out whereon duties were paid, *ib.*
- Return of, on ground of debts of the deceased, 68.
- Regulations for obtaining return of, 69.
- Form of affidavit in case of claim of, 71.
- Form of account to accompany affidavit, 74—76.
- Cases as to the return of probate duty, 76.
- Return of, not allowed in respect of mortgage debts not created by deceased, 78.
- Effect of return of, improperly obtained, 79.
- When to be repaid by legatee, 205.
- Paid by executor recovered back from legatee of leaseholds, 206.
- When creditors were liable to, in respect of trust to pay debts, 206.
- Recovered by executors from the legatee, when, 206.
- Bill to recover back, dismissed when, 207.
- Mortgagee of legacy subject to payment of, 208.
- Bankrupt's estate when not liable to payment of, 208.

PRODUCTION,

- Of books and documents by accounting party may be compelled by commissioners, 276.
- Information obtained by commissioners by, to be deemed confidential, *ib.*

PROPERTY,

- The term to include real and personal in Succession Duty Act, 248.

See PERSONAL PROPERTY—REAL PROPERTY.

PUBLIC COMPANIES OR SOCIETIES,

- Certain bequests to, when exempt from legacy duty, 83, n.

PUBLIC PURPOSES,

Successions subject to trusts for, liable to duty, 258.

What are, 258, n. (k)

See CHARITABLE GIFTS—CORPORATE BODY.

PURCHASER,

Provision for protecting *bona fide*, from liability to succession duty, 278.

Q.**QUAKERS,**

Affirmation to be made by, in case of value of effects of deceased, 14.

When too high stamp duty paid on probates, &c. 50.

In the case of too little stamp duty having been paid on probates, &c., 50.

R.**RACK RENT,**

Meaning of the term, 260.

REAL ESTATES,

Personal estates directed to be applied in the purchase of, how to be charged, 100.

The like as to succession duty, 265.

Legacies charged on, liable to legacy duty, 123.

Duties on legacies charged on, to be paid by trustees or persons entitled to such estates, 125.

Duty on monies arising from sale of, by testator's direction, 139.

In case of sale under discretionary power to sell, 141.

Legacies payable out of fund to be raised from sale of, under a previous deed, 142.

Produce of, sold under powers to be again invested in land, not liable to legacy duty, 146.

Sold under decree of Court of Chancery not liable to legacy duty, 149.

Directed to be sold to be charged as personalty, 150.

Personal property to be invested in, how to be charged, 151.

REAL PROPERTY,

Definition of the term "real property" in the Succession Duty Act, 209, 247.

How chargeable with succession duty, 227, 260.

Special provisions as to certain interests in, 230—233, 262—265.

Directed to be sold chargeable as personalty, 264.

RECEIPT,

For legacy liable to duty to contain certain particulars, 108.

Not available unless duly stamped, 108.

Stamped for annuities not required but on completing payments for each of the first four years, 109.

Penalty for paying or receiving legacies without, stamped, 109.

RECEIPT—continued.

To be stamped within 21 days after date, on which acknowledgment of payment of the duty shall be written, 110.

May be stamped within three months after date on payment of duty and penalty, 112.

Not to be stamped unless duty be paid and receipts are brought to be stamped within limited time, 112.

For legacies brought after three months may be stamped on payment of duty and penalty, 113.

If signed out of Great Britain penalty may be remitted, 113.

Penalty for altering, 122.

For succession duty to be given by receiver general of inland revenue, 277.

Bond fide purchaser for valuable consideration to be exonerated by, 278.

Instructions for filling up forms for legacy, 354.

Forms of, 354, 355.

Forms of, under Succession Duty Act, 356—359.

See LEGACY RECEIPT.

RECEIVER-GENERAL,

Of inland revenue to give receipt for succession duty, 277.

REGISTER OR REGISTRAR,

Of Ecclesiastical Court liable to penalty for not sending particulars of wills, &c. to commissioners, 16.

Within one calendar month, to send such particulars under a penalty, 17.

REINVESTMENT,

Monies subject to trust for, when to be deemed real estate, 264, 265.

RELATIONSHIP,

Amount of legacy duty regulated by degree of, between deceased and the recipient, 82.

The like in the case of succession duty, 223, 224, 255, 256.

RELEASE OF DEBT,

By will constitutes a legacy liable to duty, 169, 170.

RELIEFS,

Deduction to be made for, in valuing copyholds, 264.

RELINQUISHED PROPERTY,

Allowance, when to be made in respect of, 269.

Form of petition of appeal in a case now pending on 38 section, 366—368.

REMEMBRANCER (THE QUEEN'S),

The office ancient, 369.

Certain duties transferred to, 370.

Office to be regulated by Lords of the Treasury, 371.

Table of fees directed to be settled by Barons of the Exchequer, *ib.*

REMEMBRANCER (THE QUEEN'S)—continued.

Table of fees settled in pursuance of last direction, 373.

Certain fees in, to be the same as in plea side of Exchequer, 375.

Privileges of, not affected by the stat. 5 & 6 Vict. c. 86..373.

RENT CHARGE,

When subject to legacy duty, 152.

Appointed under power liable to legacy duty, 155.

Appointment of, in lieu of dower liable to duty, 158, 161.

Legacy duty is a charge on the land subjected to the, 205.

In lieu of tithes liable to succession duty, 210.

What estates in may be granted, 210, *ib.*

See ANNUITY—LEGACY DUTY.

RENTS,

Of assize, chief rents and rent service how chargeable with succession duty, 211.

REPAIRS,

Of real property, when allowance to made to successor for, 228, 267.

RESERVATION,

Of benefit to grantor on disposition of property, when to confer a succession, 252.

RESIDUARY ACCOUNT,

Directions for filling up, by executors and administrators, 353.

Letters written to executors or administrators to render, 361.

See LETTERS, CIRCULAR.

RESIDUE,

Of personal estate, table of duties payable in respect of, 81, 82.

See LEGACY DUTY.

RETAINER,

By executors of stamp duties on legacies, 86.

What amounts to retainer of legacies, &c. within the legacy duty acts, 171—176.

RETURN,

Of probate and administration duty, 68—72.

Of legacy duty, if legacy refunded, 119.

Of duty improperly paid under void administration, 121.

Case on the construction of last provision, 122, n. (d)

Provision as to, of succession duty in case of contingent incumbrance, 268.

Of legacy duty in case of determination of annuity, 90.

To be made by accountable parties to commissioners for the purposes of assessment, 272, 273.

Penalty for neglecting to make, 274.

See PROBATE DUTY.

REVERSIONARY INTERESTS,

When and how to be charged with succession duty, 257.

REVOCATION,

Allowance to be made for duty paid in case of, of administration, 121.

ROYAL FAMILY,

Exemption of, from legacy duty, 83, 85, 124.

From succession duty, 225, 269.

RULES,

For determining value of an annuity of 100*l.* held on the longest of two lives, 348.

Held on the joint continuance of three lives, *ib.*

Held on the longest of three lives, *ib.*

Where the annuity shall be for more than three lives, 349.

Tables published for making calculations under the rules, *ib.*

For the valuation of real property, 228, 229.

S.**SALE (POWER OF),**

When succession duty to be charged substitutively upon real estate taken under, 271.

SAVINGS BANK,

Probate, &c. of wills of depositors in, when exempted from probate duty, 47.

SCOTLAND,

The Succession Duty Act, 1853, includes real property in, 247.
Summons may issue from Court of Exchequer in, for delivery of account, 274.

Court of Exchequer in, may determine appeal against Commissioners' assessment, 277.

Appeal against assessment of succession duty in, when duty does not exceed 50*l.* to the Sheriff's Court in, 277.

Money secured on heritable property included in term "personal estate," 248.

Inventory to be exhibited in Consistory Court in, when exempt from probate duty, 21.

SECRET TRUST,

When a succession will be conferred by, 252.

SECURITY,

Further, to be taken from administrator before administration stamped with additional duty, 53—56.

See ADMINISTRATION—BOND—CHARGE—MORTGAGE—PRIORITY.

SEPARATE ASSESSMENTS,

May be made by commissioners, when, 271.

Duty how to be charged in case of, *ib.*

SHARES,

Probate in respect of, by what Court to be granted, 4.

SHORT TITLE,

Of succession duty act, 278.

SOCIETY,

Of Serjeant's Inn and Inns of Court, when exempted from legacy duty, 83.

Payment of dividends and transfer of trust property by, 43—45.

See BANK OF ENGLAND—INNS OF COURT—TRUST PROPERTY.

SOLICITOR,

Of inland revenue may proceed for recovery of duties, 254, n.

See ATTORNEY-GENERAL—INFORMATION.

STAMPS,

To be provided for denoting rate of succession duties, 253.

STATUTES CITED,

36 Geo. 3, c. 52, ss. 1—35, 37—39 (Regulations for Payment of Legacy Duty), 84—123.

39 Geo. 3, c. 73 (Exemption from Legacy Duty), 83.

39 & 40 Geo. 3, c. 72, s. 16 (Cancellation of useless Probates, &c.), 64.

41 Geo. 3, c. 86, s. 3 (Denoting Stamp for Wills and Letters of Administration), 64.

42 Geo. 3, c. 99, s. 3 (Account of Wills and Administrations to be transmitted to Commissioners of Inland Revenue), 17.

45 Geo. 3, c. 28, ss. 3—7 (Legacies out of Real Estate subject to Duties), 123—125.

48 Geo. 3, c. 149, ss. 35, 36, 37 (Exemption of Trust Property from Probate Duty), 43—46.

55 Geo. 3, c. 184, ss. 37, 38, 39 (Provisions as to Probates and Administrations), 13, 14, 16.

ss. 40, 41, 42, 43 (Provisions for rectifying Stamps on Probates, &c.), 50—57.

s. 50 (Affidavits respecting Trust Property by Persons out of England), 47.

ss. 44, 45, 46, 47, 48, 49 (Stamping Probates, &c., on Credit), 60—63.

s. 51 (Return of Probate Duty), 68.

ss. 52, 53 (Affidavits relating to Stamp Duties), 66.

9 Geo. 4, c. 92 (Probate of Wills, &c. of Depositors in Savings Banks), 47.

7 Will. 4 & 1 Vict. c. 26, ss. 6, 9 (Estates *per auter vis*, and Wills), 101, 134, 178.

5 Vict. c. 5, s. 1, (Abolition of Equity side of Exchequer), 369.

5 & 6 Vict. c. 79, s. 23 (Return of Probate Duty in respect of Debts), 68, 69.

STATUTES CITED—*continued*.

- 5 & 6 Vict. c. 86 (Regulation of Office of Queen's Remembrancer), 370.
- 7 & 8 Vict. c. 83, s. 10 (Payment of Deposits in Savings Banks without Probate, &c.), 49.
- 8 & 9 Vict. c. 76, s. 4 (Definition of Legacy), 125—127.
- 13 & 14 Vict. c. 115, ss. 40, 41 (Payment of Sums not exceeding 50*l.* to Intestate Members of Friendly Societies), 49.
- 16 & 17 Vict. c. 78, ss. 1, 2, 5 (Commissioners to administer Oaths in Chancery), 46, n.
- 17 & 18 Vict. c. 113 (Alteration of Law as to Payment of Mortgage Debt out of Personal Assets), 267, 268.
- 17 & 18 Vict. c. 125, ss. 28, 29 (Provisions as to stamping Documents at Trial), 59.

STRANGER IN BLOOD,

To testator or intestate, or to predecessor charged with duties at rate of 10*l.* per cent., 82, 256.

SUCCESSION,

Meaning of the term, 248.

What dispositions and devolutions of property will confer a, 211, 248.

SUCCESSION DUTY,

When payable generally, 209, 247, 248.

In respect of what estates in real property, 210, 247.

In personal property, 210, 248.

Of incorporeal hereditaments, 210, 211.

Upon dispositions taking effect on death, after 19th May, 1853, 211, 248.

When payable on survivorship, and when not, 212, 218, 249.

Under general and limited powers of appointment, 218, 219, 251, 266.

When payable on extinction of determinable charges, 220, 256, 257.

In respect of dispositions for evading the, 252.

On successions transmitted, 257.

On reversionary interests transferred, *ib.*

On transmitted successions, *ib.*

See EXEMPTIONS, and the appropriate heads, *passim*.

SUCCESSOR,

Meaning of the term, 249.

In the case of his own disposition, 256.

SUITS,

To recall probates or letters of administration, 12.

SUMMONS (WRIT OF),

To be framed by judges of Court of Exchequer, 274.

Form of, 275.

May be issued by commissioners for compelling delivery of account, 274.

SUMMONS (WRIT OF)—continued.

May be issued, under the Legacy Duty Acts, against executors, administrators and trustees, 275.

Form of writ of attachment against accountable party for disobeying, 275.

See ACCOUNT—APPEAL—ASSESSMENT—EXCHEQUER (COURT OF).

SURRENDER,

Of probates, &c. not to be taken by Ecclesiastical Courts on ground only of wrong duty paid, 60.

Succession duty when payable on acceleration of title by, 258.

SURVIVORSHIP,

Succession when conferred by, in the case of joint tenants, 212, 213, 249.

Not incidental to certain other estates and interests in property, 213.

Right of, applicable to personalty, when, 214.

Does not take place as to tenants by entireties, coparceners or tenants in common, 216—218.

T.**TABLES,**

To the Succession Duty Act, 1853..279—347.

Are substituted for those contained in the schedule to 36 Geo. 3, c. 52..89, 266.

Publications of, by Finlaison and Willich, 349.

See ANNUITY—RULES.

TENANTS IN COMMON,

No survivorship between, 218.

TENANT IN TAIL,

After possibility of issue extinct, how such estate arises, 218.

TESTACY,

Course of proceeding in Ecclesiastical Court for proving wills, 6.

TESTAMENTARY INSTRUMENT,

What is, 131.

May be in the form of a deed, 132.

Must be executed in compliance with Wills Act, 134.

TIMBER,

Liable to probate duty when severed from the land, otherwise not. *See Gwynne*, 22, 3rd edit.

Net monies received from sale of, liable to succession duty, 230, 262.

Payable only on monies exceeding 10*l.*, 231, 262.

Questions raised as to the liability of, to succession duty, 262, n. (u)

TIME,

For payment of duties, 260.

See ANNUITY—INSTALMENTS—LEGACY DUTY—PROBATE.

TITHES,

Or rent-charge in lieu of, when liable to succession duty, 210.

TOLLS,

Of lighthouse not liable to probate or legacy duty, 38, 139.

TRANSFERRED AND TRANSMITTED SUCCESSION,

What duty payable for, 237, 257.

TREASURY (LORDS OF),

To regulate establishment of remembrancer's office, and to fix salaries of officers, 371.

The rate of discount to be allowed on paying duty in advance, 270.

TRUST PROPERTY,

Exemption of, from stamp duties on probates and letters of administration, 18, 19, 41.

Probates of wills and letters of administration valid as to, though the value thereof not covered by probate duty, 42.

Special affidavit may be required as to facts relating to, 43.

Directions concerning affidavits by executors residing out of England, relating to, 46.

TRUSTEE,

Chargeable with legacy duty, when, 95.

Not to pay legacy or share of residue without taking a receipt, 108.

Legacy duties charged on real estate by 45 Geo. 3, c. 28, payable by, 125.

The term trustee in Succession Duty Act includes executors and administrators, 248.

Liable to payment of succession duty, *ib.*

May compound or commute such duty, *ib.*

May raise such duty by mortgage of property, *ib.*

Making default in payment of duty, crown debtors, *ib.*

To give notice of succession to commissioners, *ib.*

TUTOR,

Liable to payment of succession duty, 272.

May compound or commute such duty, *ib.*

To give notice of succession to commissioners, *ib.*

U.**UNDERWOOD,**

Exception of, from provision as to timber, 262.

V.**VALUATION,**

Of property not reduced into money for the purposes of the 36 Geo. 3, c. 52.. 102.

Of property may be directed by Court of Appeal, 277.

See **APPEAL—EXCHEQUER (COURT OF).**

W.

WIFE,

Exempt from legacy duty as to property derived from husband, 83, 85.

The like as to succession duty, 225, 259.

How to be charged with duties when in nearer degree of consanguinity than the predecessor, 256.

The previous rule on this subject, 170, 171.

See HUSBAND.

WILL,

Disposition by, will confer a succession, 248, 249.

What instrument will be considered a, 131.

Promissory note held not to be, 133.

Made on or after 1st January, 1838, how to be signed and attested, 134.

When not constituted by letters, *ib.*

Must be in conformity with law of testator's domicile, 177, 178.

Otherwise in the case of a will made in execution of a power, 178.

Law respecting in India assimilated to that of England, *ib.*

WILLICH,

New succession duty tables published by, 349.

WORDS,

Meaning of "legacies" in 36 Geo. 3, c. 52..88.

In 45 Geo. 3, c. 28..124.

In 8 & 9 Vict. c. 76, s. 4..126.

In the Succession Duty Act,

"Legacy Duty Act," 248.

"Person," *ib.*

"Personal property," *ib.*

"Property," *ib.*

"Predecessor," 249.

"Real property," 247.

"Succession," 248, 249.

"Successor," *ib.*

WRIT,

Of summons to be framed by judges of Court of Exchequer, 274.

Form of, 275.

Of attachment for disobeying summons to account for duties, 275.

Nature of writ of extent, 375.

Issued from remembrancer's office, when necessary to be returnable without delay, 372.

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CONTENTS OF THE CATALOGUE.

	Page
ARCHER'S Index to the Unrepealed Statutes	17
BAINBRIDGE'S Law of Mines and Minerals	15
BAKER'S Office of Coroner	17
BARBADOS, Laws of	3
BROWNE on Actions at Law	16
BURCHELL and KENNEDY'S Joint Stock Companies Act	19
CLARK'S House of Lords Reports	22
COOPER'S Chancery Acts and Orders	19
Chancery Chamber Practice	16
Chancery Cases and Dicta	22
COOTE'S Ecclesiastical Practice	16
CRABE'S Conveyancing, by Christie	8
DEANE on the Law of Blockade	3
FARRER'S Forms of Original Bill	20
FONBLANQUE'S Bankruptcy Reports	22
GAIL on Legal Instruments	20
GRANT'S Law of Corporations in General	15
GREENING'S Forms of Pleadings, &c., in Common Law	14
GUNNING on the Law of Tolls	17
HAMEL'S Laws of the Customs	21
HERTSLET'S Commercial Treaties	19
JAMES on Land and Building Societies	17
KERR'S Common Law Procedure	4
KEYSER'S Law of the Stock Exchange	18
LEIGH'S Law Student's Guide	20
MAY'S Parliamentary Practice	4
MOORE'S Solicitor's Practical Forms	13
Instructions for preparing Abstracts of Title	13
Country Attorney's Pocket Remembrancer	13
NORMAN'S Treatise on the Law of Patents	21
NOTES of Cases in the Ecclesiastical and Maritime Courts	22
ONE'S Magisterial Synopsis	12
Magisterial Formulist	12
Solicitor's Bookkeeping	12
Turnpike Laws	11
O'DOWD'S New Chancery Practice	10
PRARCE'S Guide to Inns of Court and Bar	3
PULLING'S Law and Usage of Mercantile and Joint Stock Accounts	14
QUAIN and HOLROYD'S Common Law Procedure	9
ROBINSON'S, Dr., New Admiralty Reports	22
ROUSE'S Copyhold Enfranchisement Manual	10
SCOTT'S Common Bench Reports	22
SCRIVEN'S Law of Copyholds, by Stalman	18
SEWELL'S Law of Sheriff	20
SHELFORD'S Law of Railways	11
STEPHEN'S New Commentaries on the Laws of England	6
Questions on Ditto	7
TUDOR'S Edition of Pothier's Partnership	16
WARREN'S Manual of Election Law and Registration	9
Election Committee Practice	9
WHARTON'S Articled Clerk's Manual	5
WILLS'S Principles of Circumstantial Evidence	18
WORKS Preparing for Publication	23

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